

Chesapeake Bay Critical Area Commission
Department of Housing and Community Development
Peoples Resource Center
Crownsville, Maryland
July 5, 2000

AGENDA

1:00 p.m. - 1:05 p.m.	Approval of Minutes Of June 7, 2000	John C. North, II, Chair
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PROGRAM AMENDMENTS and REFINEMENTS

1:05 p.m. - 1:15 p.m.	Refinement-Talbot County Bill #762 Joint Review Process	Lisa Hoerger, Planner
1:15 p.m. - 1:30 p.m.	Amendment/VOTE-Fruitland Critical Area Program Revision	Tracey Green, Cir. Rider
1:30 p.m. - 1:45 p.m.	Refinement-Wicomico County River Woods Growth Allocation	LeeAnne Chandler, Planner
1:45 p.m. - 2:00 p.m.	Refinement -Dorchester County Zoning Ordinance Text Amendment	Mary Owens, Pgm. Chief
2:00 p.m. - 2:25 p.m.	Amendment/VOTE-Anne Arundel Co. Comprehensive Review	Lisa Hoerger, Planner

PROJECT EVALUATION

2:25 p.m. - 3:00 p.m.	VOTE/Woodrow Wilson Bridge DOT/SHA	Lisa Hoerger, Planner
3:00 p.m. - 3:10 p.m.	VOTE/Baltimore County North Point State Park New Buildings	Regina Esslinger, Project Chief
3:10 p.m. - 3:20 p.m.	VOTE/St. Mary's College Student Housing	Mary Owens, Pgm. Chief
3:20 p.m. - 3:30 p.m.	Old Business Legal Update	John C. North, II, Chairman Marianne Mason, Esquire Commission Counsel
3:30 p.m. - 3:45 p.m.	New Business	

Chesapeake Bay Critical Area Commission
Department of Housing and Community Development
People's Resource Center
Crownsville, Maryland
July 5, 2000

SUBCOMMITTEES

9:00 a.m. - 10:00 a.m. Project Evaluation

Members: Bourdon, Cain, Witten, Giese, Goodman,, Cooksey, Hearn, Graves, Olszewski, Jackson, McLean, VanLuven, Jones

Woodrow Wilson Bridge DOT/SHA
North Point State Park Buildings/DNR
St. Mary's College /Student Housing

Lisa Hoerger, Planner
Regina Esslinger, Project Chief
Mary Owens, Program Chief

10:00 a.m. - 11:00 p.m. Program Implementation

Members: Foor, Myers, Barker, Williams, Wynkoop, Johnson, Lawrence, Duket, Samorajczyk, Bradley

Talbot County bill No. 762
Joint Review Process/Refinement
Fruitland C. A. Program Revision
Amendment

Lisa Hoerger, Planner

Tracey Green, Circuit Rider

Wicomico River Woods
Growth Allocation

LeeAnne Chandler, Planner

Dorchester County Zoning Ordinance
Text Amendment

Mary Owens, Pgm. Chief

PANEL

Members: Foor, Bourdon, Cooksey, Duket

11:00 a.m. - 11:30 p.m.

Anne Arundel County

Lisa Hoerger, Planner

Bill #12-00 Comprehensive Review Amendment

12:00 p.m. - 1:00 p.m. - LUNCH

Chesapeake Bay Critical Area Commission
People's Resource Center
Department of Housing and Community Development
Crownsville, Maryland
June 7, 2000

The Chesapeake Bay Critical Area Commission met at the People's Resource Center, Department of Housing and Community Development, Crownsville, Maryland and the meeting was called to order by John C. North, II, Chairman, with the following Members in attendance:

Bourdon, Dave, Calvert County	Samorajczyk, Barbara D., Anne
Goodman, Bob, DHCD	Arundel County
Cain, Deborah B., Cecil Co.	Wynkoop, Sam, Prince George's Co.
Cooksey, David, Charles Co.	Lawrence, Louise, Md. Dept. Ag.
Corkran, Bill, Talbot County	Wenzel, Lauren, DNR
Foor, Dr. James, C. QA Co.	Duket, Larry, Md. Office of Planning
Giese, William, Jr., Dorchester Co.	Johnson, Samuel Q., Wicomico County
Setzer, Gary for Hearn, J.L., Md. Dept. of Environment	
Myers, Andrew, Caroline County	

Not in Attendance:

Barker, Philip, Harford County
Olszewski, John Anthony, Baltimore County
Wilde, Jinhee, Western Shore MAL
McLean, James H., DBED
Van Luven, Heidi, Maryland Department of Transportation
Witten, Jack, St. Mary's County
Bradley, Clinton, Eastern Shore MAL
Williams, Roger, Kent County
Jackson, Joseph, III, Worcester Co.

The Minutes of April 5, 2000 were approved as read.

Chairman North announced that Bill Corkran will be retiring from the Commission. Mr. Corkran has been a stalwart attendee and a valuable member for about 11 years. He will be greatly missed. His successor, Mr. Paul Jones, was introduced to the Commission. Ms. Jinhee Wilde and Mr. Roger Williams, not in attendance, will also be retiring.

The Chairman introduced Mr. Eric Williams who will be interning with Commission Counsel, Marianne Mason.

Claudia Jones, Science Advisor, CBCAC presented for VOTE the Guidance Paper for Forest Interior Dwelling Species. Ms. Jones said that the original Guidance Paper was published in 1986. She described the changes to the Paper and said that there will be better protection and conservation of FIDS, required by the Criteria, through site design guidelines, new bird survey methods, and guidance for local governments to provide mitigation when impacts are unavoidable, and, there will be new species identification. Dr. Foor moved to approve the Draft Guidance Paper with the printed revisions of 6-7-2000 entitled "Draft Guidance - A Guide To The Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area" to be used to assist local governments in their quest for FIDS protection and conservation. The motion was seconded by Louise Lawrence and carried with 15 votes with 1 abstention (Mr. Corkran).

Lisa Hoerger, Planner, CBCAC presented for VOTE the proposal by the Maryland National Capital Park and Planning Commission (MNCPPC) to reconfigure an existing turnaround and to construct a 20-car parking lot in Cedarhaven Park in Prince George's County. Mrs. Hoerger described the technical details of the project. It has been determined that there are no rare, threatened or endangered species using this site for habitat, but it may support FIDS; clearing will be limited, with mitigation required at 1:1 ratio; and, there will be no impact to any significant historical area. Dave Bourdon moved to approve the project as presented. The motion was seconded by Bill Giese and carried unanimously.

Ren Serey, Executive Director, CBCAC gave an overview of the status of the Annapolis Comprehensive Review. Mr. Serey said that in the Chairman's letter to the City, they were notified that the Commission had voted to sanction the City's Program regarding steep slopes and variance language not consistent with the Criteria and that these changes needed to be made within 90 days. This period has ended, but the required changes have not been submitted. Mr. Serey met with Jon Arason, the City Planning Director, who said that he will meet with the City Council on June 10th to explain the changes. Ren will attend a session with the City Council on June 28th. Commission Counsel, Marianne Mason discussed the required changes and advised the Commission to leave the sanction intact based on the old standard. Chairman North asked Mr. Serey to draft a letter to the City explaining the dilemma of offering a modification to the Commission's sanction wherein the Commission would have agreed to allow variances in the expanded buffer to go forward and be approved when it involves types of variances that the Commission would not object to anyway. The Chairman's letter will explain that the Commission cannot modify the sanctions without exposing the city and the Commission to legal liability if a variance were challenged. Marianne Mason said that the Buffer needs first to be expanded before a variance can be approved. Mr. Serey assured the Commission that the staff will work with the City in finalizing the Program.

LeeAnne Chandler, Planner, CBCAC presented for Concurrence with the Chairman's determination of Refinement a request to redesignate 18.89 acres of land from RCA to IDA on basis of mistake. This proposed mapping change is for the rezoning of an area adjacent to the incorporated Town of Snow Hill in Worcester County. The Planning Commission has reviewed the petition for the mapping change and made a favorable recommendation to the County Commissioners who subsequently approved the petition on May 16, 2000. The Commission supported the Chairman's determination of Refinement.

Ms. Jones presented for Concurrence with the Chairman's determination of Refinement a request to change 1.92 acres for the Evans Boat Yard Property from LDA to IDA. The property is currently being used as a boatyard and the owner is proposing to construct additions to the business which will increase impervious surface beyond the 15% limit permitted in LDA. The County has sufficient growth allocation for this property and this project has been determined to be a commercial enterprise, not required to meet

the local point scoring system, and meets the County's requirements for economic benefit to the County. The Commission supported the Chairman's determination of Refinement.

Ms. Jones presented for Concurrence with the Chairman's determination of Refinement a consideration to change the Critical Area mapping in the Annemessex Ridge Subdivision by Somerset County based on mistake. The County mapped the 100-foot Buffer at the same time the rest of the Critical Area was mapped and classified into the three overlay designations. In 1996 this subdivision was designated as a Buffer Exemption Area but the Critical Area Buffer was not shown for a man-made canal and was not designated, but is in fact similar with respect to the pattern of development to the area that was designated BEA. The County has concluded that the property was not mapped in a manner that was consistent with the approach used to designate the Buffer and Buffer Exempt Area. The Commission supported the Chairman's determination of Refinement.

Ms. Jones presented for Concurrence with the Chairman's determination of Refinement Somerset County's text amendment request for their Critical Area Program and Zoning Ordinance regarding the approval process within Buffer Exemption Areas. Currently, the County staff are reviewing and approving each project within a BEA on a case by case basis. The County proposes to streamline the development review process with both the Director of the Department of Technical and Community Services and the Zoning Inspector who will replace the Planning Commission as the entity responsible for reviewing and approving development projects in the BEAs. The Commission supported the Chairman's determination of Refinement.

Lisa Hoerger, Planner, CBCAC presented for Concurrence with the Chairman's determination of Refinement the annexation of Ratcliffe Manor Lane in Easton, Maryland. The Glenwood Farm/Ratcliffe Manor Property was annexed into the town last year but the Manor lane was not annexed. The parcel is identified in the 1998 Comprehensive Plan as a growth area in the Town of Easton. There are 1.053 acres in the Critical Area and the Town of Easton has annexed 3,176 acres. The Commission supported the Chairman's determination of Refinement.

OLD BUSINESS

There was no old business reported.

NEW BUSINESS

Commission Counsel Marianne Mason, Esquire gave an update on legal matters. She said that the Mastandrea case has been in the Court of Appeals for the last two months and no decision has been made.

There has been a motion to dismiss a lawsuit of Bonnie Bick vs. Chairman North in Prince George's County regarding the Chairman's concurrence with a refinement for the Opryland project.

The case of the house in the Buffer on a large lot in Somerset County Circuit Court was dismissed last month because the house has been situated out of the Buffer.

Ms. Mason will be in Dorchester Circuit Court arguing a case regarding approval of a shed in the Buffer on Tuesday, June 13th.

There is a continuation of hearings at the Anne Arundel County Board of Appeals for a shed for the storage of medical waste on the shoreline and for a house located in the Buffer. There has been no decision on either case.

In Anne Arundel County, the White Case, concerning a swimming pool in the Buffer, was remanded to the Anne Arundel County Board.

Chesapeake Bay Critical Area Commission
Minutes, June 7, 2000

Chairman North invited the Commission members to visit the Commission's new offices in Annapolis at 1804 Street, Suite 100.

There being no further business, the meeting adjourned.

Minutes submitted by:

Peggy Mickler, Commission Coordinator

Chesapeake Bay Critical Area Commission
STAFF REPORT
July 5, 2000

APPLICANT: Department of Transportation, State Highway Administration

PROPOSAL: Woodrow Wilson Bridge Replacement

JURISDICTION: Prince George's County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval with conditions

STAFF: Lisa Hoerger

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.05 State Agency Actions Resulting in Development on State-Owned Lands

DISCUSSION:

The State Highway Administration (SHA) proposes to demolish and replace the existing Woodrow Wilson Bridge which crosses the Potomac River just south of Washington D.C. The project area impacts State-owned lands and federally owned lands. The Commission's approval of this project will be consistent with COMAR 27.02.05.

Description of New Bridge

The project area spans a 7.5 mile section along the I-95/I-495 Capital Beltway ramp, from west of Telegraph Road in Virginia to the east of Indian Head Highway (MD 210) in Prince George's County, Maryland. The proposed bridge will have two parallel drawbridges, one for eastbound traffic and other for westbound traffic, constructed approximately 30 feet south of the existing bridge. Each bridge will include four general use lanes, one HOV/express bus/transit lane and one merging/diverging lane. The drawbridges will be approximately 6,075 feet long, with a maximum grade of three percent, and have a 70-foot clearance over the navigational channel.

The proposed bridge consists of spans ranging in length from 120 feet to 398 feet including a 366-foot span over the main navigation channel of the Potomac River. The piers of this structure reflect a unique delta or V-shape with curved, vertically sloping pre-cast concrete legs. The foundations for the piers consist of cast-in-place concrete footings constructed on steel pipe piles. The cross section has a total width of 249 feet with the eastbound bridge being 110 feet wide, the westbound bridge being 124 feet wide, and a 15-foot separation between the bridges. The interchanges at the intersections (MD I-295 and MD 210) will be reconstructed to provide for better traffic flow, increased access and roadway widening.

This selected alternative includes provisions for special design features. They include:

- A deck over the Capital Beltway on Rosalie Island to connect parkland on both sides and to provide a connection for the proposed Potomac Heritage Trail.
- A 12-foot wide pedestrian/bicycle facility with appropriate safety offsets will be included on the new bridge and will connect to the existing/proposed trail systems in Virginia, Maryland, and the District of Columbia.
- Conceptual mitigation plans have been developed to further enhance Rosalie Island to mitigate impacts to the parkland from the highway construction project. (NOTE: This portion of the project will be reviewed and approved independently of the bridge and highway project).

Impacts to the Critical Area

Unavoidable impacts are associated with the construction of the new Woodrow Wilson Bridge. They include impacts to aquatic resources, the 100-foot Buffer and forestry impacts. The current impacts to the wetlands and submerged aquatic vegetation, mitigation, and proposed options are outlined below.

Impact/Type	Mitigation Proposed	Location
1.0acre Nontidal Wetlands 1.3 acres Tidal/Nontidal Wetlands	3.0 acres Nontidal Creation	Bevard Advanced Mitigation Area (TCR2), Prince George's County
0.2 acre Tidal Wetlands 30.9 acres SAV 6.7 acres Tidal Waters	15 acres nontidal wetland enhancement to tidal wetlands	Anacostia East (ANA11), Prince George's County
	Fish Blockage Removal of 21 blockages	Rock Creek, Montgomery County and District of Columbia
		Hatchery Restocking for five (5) years in selected tributaries to the Anacostia River.
		Indian Creek at Greenbelt Road, Prince George's County
		Little Paint Branch, Prince George's County
		Sligo Creek, Prince George's County
		Northwest Branch, Prince George's County
	20.0 acres in-kind SAV creation at Lower Potomac River	Lower Potomac River (LPR1), St. Mary's County

Mitigation Alternative	Description	Comments
Option A (preferred)	15 acres tidal wetland	Project contribution to be based on cost normally
		MOU to be developed for completing landfill
		Project will complete site characterization study
Option B	Combination of wetland creation and preservation of wetlands and uplands.	
Wetland Creation (5-20 acres)	CAT3, LBD T1-2, CAB 8/9	Lower Beaverdam Watershed ↓ 5 acres nontidal creation potential
	PCR8 (Puterbaugh)	Piscataway Creek Watershed ↓ 6-10 acres nontidal restoration potential ↓ Meeting completed with Piscataway Indian Nation; pending approval from Nation Council.
	NAN 3 (Helwig Farm)	
Preservation of Wetland and Uplands (100-300 acres)	MWC 11 (Cedarville) MWC 16 (Palumbo) MWC 18 (Monel) MWC 19 (Dobson)	Nanjemoy Creek Watershed ↓ 5 acres tidal creation potential ↓ Phase I archeology completed ↓ Topographic survey completed
	BCR4 (Broad Creek)	Mattawoman Creek Watershed ↓ MWC16- 60 acres forested upland on Rt. 228 ↓ MWC18- 104 acres forested wetland and uplands on Rt. 228; adjacent to SHA Clifton mitigation site
	Floodplain sites identified by Prince George's County	↓ MWC19- 100 acres forested floodplain and agricultural fields with wetland creation potential
		5 acres of floodplain wetlands and uplands in Broad Creek watershed
		Site locations to be determined

Forest impacts are currently being quantified and the Commission will be updated at its July meeting by the project forester. Commission staff are working closely with SHA to help the agency meet its reforestation requirements. The latest information is shown below. The project forester will also speak to the progress of locating appropriate mitigation sites.

Estimated Forest Impacts and Reforestation Requirements

Impacted Area	Proposed Clearing (acres)	Mitigation rate	Reforestation Requirement (acres)
CBCA 100' Buffer	11.1	3:1	33.3
CBCA RCO	0.0	3:1	0.0
CBCA LDO	1.1	3:1	3.3
CBCA IDO	24.7	1:1	24.7
Reforestation Law	41.9	1:1	41.9
Total	78.8		103.2

SHA instructed its consultants to perform an exhaustive study of potential mitigation sites for the impacts to aquatic resources. Site visits were performed with the permitting resource agencies including the Army Corps of Engineers, the Maryland Department of the Environment, the Environmental Protection Agency, U.S. Fish and Wildlife Service, National Marine Fisheries and the Department of Natural Resources. Together with these agency representatives, SHA was able to identify and prepare an aquatic mitigation package. Its approval is pending with the permitting resources agencies. These agencies guided SHA in determining the components of an acceptable mitigation package. It includes the creation of new tidal wetlands, enhancement of existing wetlands and improvements to stream channels (i.e. fish passage).

Dredging

The proposed alternative will require 500,000 cubic yards of dredging over two seasons. The proposed area to receive the dredge materials is located in Virginia. The dredging is scheduled to begin this fall.

Habitat Protection Areas (HPAs)

As previously discussed, SAV and tidal wetlands will be impacted by the construction of this project. Also, the Potomac River supports anadromous fish in addition to the short-nosed sturgeon. The bald eagle also frequents the project area. A biological opinion was issued and an update of these HPAs will be discussed at the meeting.

Permits

SHA has secured its Tidal Wetlands License and at the time of this report is awaiting its Water Quality Certification from the Maryland Department of the Environment. Permits from the Army Corps of Engineers are expected shortly.

Conditions

By approving this project at the July 5, 2000 meeting, the Commission will be approving the main line of the proposed Woodrow Wilson Bridge with the understanding that the changes to the 295 interchange, aquatic resource mitigation package, forest resource mitigation package, and 10% Rule Compliance will continue to be negotiated and reviewed by Commission staff with SHA and its representatives. As such Commission staff propose the following conditions of approval:

1. The Commission staff will be apprised of changes to the aquatic mitigation package, and will be involved in all future site visits or discussions pertaining to the aquatic mitigation package. When the aquatic mitigation package is finalized, it will be brought to the Commission for review and approval. Periodic updating of the Commission's Project Subcommittee shall occur by SHA on a quarterly basis, or as often as the subcommittee deems necessary.
2. The Commission staff will be apprised of progress of the forest mitigation package, and will be involved in all future site visits or discussions pertaining to the forest resource package. Prior to construction, periodic updates shall be brought before the Commission's Project Subcommittee for review. The updates should include information that include efforts made to look on both public and private lands in the Critical Area, and including lands owned by land trusts. Sufficient documentation would include those alternatives examined, and justifications for selecting certain sites over others. Once the forest mitigation package is finalized, it will be brought to the Commission for review and approval.
3. The Commission staff will work with SHA to ensure the 10% Pollutant Reduction Requirement is met for this project. Once the 10% calculations are finalized they will be brought before the Commission for review and approval.

ROUND 2

Our Real Agenda On the Wilson Bridge

Reasoned and respectful dissent is a hallmark of democracy. Yet Reps. Jim Moran and Thomas Davis attack citizen advocacy of rational, effective solutions to replacing the Woodrow Wilson Bridge as "deceitful and destructive," while mischaracterizing our position ["Red Herrings on the Wilson Bridge," *Close to Home*, June 4].

Our organizations support rapid replacement of the Wilson Bridge and expansion from six lanes to 10. We also support commuter choice by designing in rail—not HOV lanes—now as a key link to the Purple Line. While a highway lane at rush hour can carry only about 1,500 cars, one track of rail can carry up to 10,000 commuters.

Based on professional engineering advice, we support a study of a tunnel, which could offer cost savings and guaranteed space for rail. We would support any alternative that provides rail and narrows the project's width on land to 170 feet.

The 12-lane, 249-foot-wide drawbridge proposal doesn't make sense. A month ago, authorities insisted that \$1.9 billion was the final cost estimate for a bridge first pitched at \$1.5 billion. Yet the latest estimate has risen to \$2.5 billion [Metro, June 5]. The largest costs stem from the interchanges required by the separation of express and local lanes. Ditch this scheme, and the bridge could be replaced with the \$1.3 billion on hand.

The 12-lane drawbridge will be nearly three times as wide as the present bridge and will cut a canyon through Alexandria, one of the nation's most historic cities; nearly 600 residents of moderately priced homes will be displaced.

Worse, the design will shift traffic bottlenecks onto I-295, Maryland 210 and Alexandria's crowded streets. The National Harbor project alone could add thousands of cars to area traffic, helping to clog

the bridge almost as soon as it opens [Metro, March 6, 1999].

Recent research demonstrates the limitations of highway expansion for relieving congestion. In Maryland and Virginia, up to 51 percent of new capacity is being lost to new traffic that is generated by drivers shifting their commute routes, drivers leaving car pools and mass transit to return to the roads and by new development.

Providing commuter choice through expanded, affordable, convenient and reliable bus and rail service is key to a regional solution. Our region also must change how and where it grows. The total number of miles we drive is rising nearly twice as fast as the population. According to the Federal Highway Administration, most increases in driving can be traced to sprawl. This means we must link rail with wiser land-use policies. We need to:

- Reduce the scattering of office buildings and focus job centers.
- Use available land near Metro stations for development, and take advantage of the extensive reserve commute capacity of Metrorail.
- Adopt policies to balance job locations, including more jobs for Prince George's County.
- Reduce auto trips by ensuring that communities have a mix of office, retail, recreation and housing in a pedestrian- and bike-friendly environment.

In short, we advocate comprehensive, long-term solutions for the Wilson crossing and for regional congestion—and that is hardly a "deceitful and destructive" agenda.

—Joy Oakes

—Stewart Schwartz

are, respectively, senior regional representative of the Sierra Club and executive director of the Coalition for Smarter Growth.

Replacing the Wilson Bridge: More Transportation Choices? Or Still Stuck in Traffic?

As the costs of the 12-lane drawbridge soar to \$2.5 billion and rising, the region may have a fresh opportunity to increase transportation choices in metropolitan Washington- with your help!

Background: The existing 6-lane Woodrow Wilson Bridge, which carries I-95/I-495 across the Potomac River between Alexandria, VA and Oxon Hill, MD, is scheduled for replacement. The Beltway in VA and MD is 8 lanes. The VA Department of Transportation (VDOT) wants to "12-lane" the Virginia part of the Beltway, including separate HOV lanes, with little consideration given to rail as an alternative. MD DOT is considering a number of options, including 4 rail alternatives, to meet future transportation needs in the Beltway corridor.

After a multi-year process flawed by its failure to comply with environmental laws, the design chosen to replace the existing bridge was twin 6-lane drawbridge with separated HOV lanes- a 249-foot wide "Monster Bridge" with a huge "footprint".

The city of Alexandria and three citizen groups including the Coalition for a Sensible Bridge sued. Sierra Club filed an amicus brief. Alexandria, under intense political pressure, dropped out of the suit.

Replacing the Wilson Bridge expeditiously: Sierra Club supports moving as quickly as possible to replace the Wilson Bridge- while complying with existing environmental and historic preservation laws including the National Environmental Policy Act and the federal Clean Air Act. Responsibility for

any delay stemming from the court decision rests entirely with officials who failed to follow the law, or to heed citizen's concerns.

Repairs a Reality: Regardless of which alternative is chosen, the existing bridge will have to be re-decked.

Need for responsible and reliable information to the public: Irresponsible parties are trying to create the impression the bridge is in danger of imminent collapse. Official engineering reports state that the bridge's supporting piers are solid. Officials must provide the public with accurate information on the bridge's status and not let unreasonable fears drive this decision.

Sierra Club opposes a Wilson Bridge replacement without Metrorail because:

- It would be an expensive "quick fix," not a real solution for transportation and air quality problems. The only way to keep people moving in the 21st Century is to provide transportation choices, including rail.
- Its benefits do not justify the \$2.5 billion cost. For example, the proposed separated HOV (high-occupancy vehicle) express and local lanes are extremely expensive, necessitate enormous interchanges, and are not cost-effective. They should be dropped. These separate HOV lanes would cost over \$1 billion to construct (approximately 50% of the total cost), but carry only 2% of the proposed 12-lane bridge's traffic volume.
- It would fuel sprawl development.
- It would fuel dependence on cars.

- It would degrade historic Alexandria.
- It would degrade the Maryland and DC shorelines at Oxon and Eagle Coves, and other natural resources.
- It would encourage the VDOT move forward on its intention to "12-lane" the Beltway in VA, even though Maryland may not do so, and is considering 4 rail options.
- It was chosen in a flawed process.

Sierra Club supports:

- A 12-lane design (with rail as a fundamental part of the overall design, 10 traffic lanes and 2 rail lanes) and a smaller "footprint".
- A design that will help clean up DC-area summer smog, and will protect natural and historic resources.
- A design that supports a network of livable communities, the only long-term solution for metro DC's traffic woes. We support shifting development to revitalize established communities like Oxon Hill and Washington Highlands and minimizing it along waterfront open space at Eagle and Oxon coves, and connecting population centers and commercial centers, such as Alexandria and Oxon Hill, with rail links.
- Economic and environmental feasibility analyses of alternative designs including tunnels.
- Considering the proposed Wilson Bridge replacement in context with transportation improvements in the Beltway corridor.
- Meaningful public involvement in the process.

Your Help Needed:

Please contact area decision-makers today! Ask them to urge U.S. Department of Transportation Secretary Rodney Slater and his department to follow the nation's laws to

protect environmental and historic resources. Sec. Slater and DOT must:

1. Take seriously public concern about sensible transportation projects.
2. Include rail now in the design.
3. Analyze alternative designs including tunnels to the proposed 12-lane "Monster Bridge" with its separated HOV lanes and enormous "footprint".
4. Analyze the environmental impacts of all alternatives.
5. Include meaningful public involvement in the process.
6. Choose the best alternative that will move the most people in the 21st century with the least impact on air quality and natural resources- not one that would create massive interchanges and more air pollution in our neighborhoods.

Please call the Capital Switchboard at 202-224-3121 and ask for your Representative or Senator:

VA: The Hon. Jim Moran (D-VA08)
The Hon. Thomas Davis (R-VA11)
The Hon. Frank Wolf (R-VA10)
The Hon. Charles Robb (D-VA)

MD: The Hon. Albert Wynn (D-MD04)
The Hon. Steny Hoyer (D-MD05)
The Hon. Barbara Mikulski (D-MD)

DC: The Hon. Eleanor Holmes Norton (D-DC)

According to official studies, a 12-lane Wilson Bridge replacement could be gridlocked again by 2007.

Questions? Call Sierra Club
(703) 312-0533 or
Coalition for Smarter Growth
(202) 588-5570

METRO

WEDNESDAY, MAY 24, 2000

Pr. George's, Arundel Air Among Worst In the Nation

By EUGENE L. MEYER
Washington Post Staff Writer

Anne Arundel and Prince George's counties have the worst ozone air pollution in the Washington area and are among the worst in the country, said a study released yesterday by the American Lung Association.

The study also found that the Washington-Baltimore area, which includes Northern Virginia, is the seventh most ozone-polluted region in the country. The most polluted region was Los Angeles-Riverside-Orange County.

High levels of ozone can pose serious health risks, including coughing, headaches, nausea, shortness of breath, wheezing, and eye and throat irritation, said Steven Schoenfeld, a physician and president of the American Lung Association of Maryland.

Particularly at risk are the young and elderly and people with respiratory problems. In the Washington-Baltimore region, that includes nearly one-third of the 6.4 million residents who are younger than 14 or older than 65.

Ozone levels run high in the region because of the increasing number of vehicles on the roads. The region also receives a significant amount of ozone from emissions originating in the Ohio Valley, where power plants give off hydrocarbons and nitrous oxides.

See OZONE, B4, Col. 1

How the Region Compares

Anne Arundel and Prince George's counties have the worst ozone air pollution in the Washington area, according to a recent study. How local jurisdictions compare with the most-polluted county in the nation, San Bernardino, Calif.:

Three-year totals

Days	Anne Arundel	Prince George's	The District	Fairfax	San Bernardino
Code orange (Unhealthy for sensitive groups)	69	53	44	41	138
Code red (Unhealthy)	21	8	4	8	88
Code purple (Very unhealthy)	2	1	1	0	81

NOTE: Code orange: 0.085 to 0.104 parts per million; code red: 0.105 to 0.124 parts per million; code purple: 0.125 to 0.374 parts per million

SOURCE: U.S. Environmental Protection Agency, based on data collected from 1996 to 1998.

THE WASHINGTON POST

Vehicle Pollution Called Big Part of Ozone Problem

OZONE, From B1

Based on data collected from 1996 to 1998, Anne Arundel ranked 11th worst among 678 counties nationwide monitored by the U.S. Environmental Protection Agency. Prince George's tied for 24th worst with Ocean County, N.J., and Wake County, N.C.

Nowhere else in Maryland was among the top 25 most-polluted counties. But Calvert and Montgomery counties and Baltimore were among 11 jurisdictions in the state that received an F grade for their large number of high-ozone days.

In Virginia, Fairfax County had the worst ozone pollution and received an F. Arlington and Prince William counties and Alexandria also received F's, but they were not ranked within the state. The study did not measure Loudoun County.

Anne Arundel's levels are high because it is downwind of Washington, which has many cars on the road and where emissions blow from the Midwest. Weather fronts that form over Chesapeake Bay also keep pollutants in Anne Arundel.

"Anne Arundel's in a bad place," said Bill Ryan, a meteorologist with the University of Maryland. "No matter which way the wind blows, it's going to be downwind of the I-95 corridor. And in summer, when the winds are from the southwest, it is downwind of D.C."

Prince George's emissions also contribute to Anne Arundel's problem. Auto emissions from downtown Washington mix with Prince George's, and by the time they react with sunlight to form ozone, the air mass has moved on to Anne Arundel. There, bay breezes blowing in the opposite direction cause stagnation, Ryan said.

For those at risk for breathing problems, health experts advise limiting strenuous outdoor activities to the early morning, before ozone levels rise.

"Keep the kids indoors when ozone conditions are bad," said Lisa Fronc, an Annapolis pediatrician.

"On high-ozone days, we see almost a doubling in the number of cases of children and adults with asthma flares coming into doctors' offices and emergency rooms," Fronc said.

"We know it's a lung irritant and causes inflammation. The effect on the lungs is the same as sunburn on your skin. It can cause damage to the lung tissue and interfere with the lung's ability to fight infection."

To improve air quality, Ryan said, hydrocarbons and nitrous oxides must be controlled at the source, such as in the Ohio Valley.

Increasingly crowded highways also pose a problem. "What's happened with cars," Ryan said, "they're getting cleaner. But people are driving them farther, and there are more of them."

To: Critical Area Commission
Re: 2.5 Billion Dollar, Twelve Lane, Draw Bridge
with HOV [High Occupancy Vehicle Lanes] and
Interchanges, with NO RAIL for at least 25 years
From: Karen Egloff and Bonnie Bick 301 8397403,
The Campaign to Reinvest in the Heart of Oxon Hill
July 5th, 2000

There is an agenda item to approve the Growth Allocation for the Woodrow Wilson Bridge replacement [WWBR]. Our groups had requested the opportunity to make a presentation to you, about the tunnel-metro [ten lanes for traffic plus two for rail] alternative. A request for the study of this possibility was made to FHA [Federal Highway Administration]. Unfortunately, FHA studied a twelve lane, HOV tunnels with no rail. Our request for tunnel modeling was as a means to incorporate needed rail transportation into the WWBR. We felt there was a win-win opportunity for this major infrastructure replacement and our capital region.

Unfortunately the debate has altered with the Warner/Davis rider. The House and Senate have approved a Military Construction Appropriations Bill that would provide \$170 million additional federal funds to begin construction of the WWBR, without full funding for the project. This is a terrible precedent because it exempts the bridge from responsible fiscal constraint requirements in the law. This is unfortunate for Maryland. The decision to proceed without rail will lock the Oxon Hill area into a future with little transportation choices. It forecloses the land use opportunity for transit oriented, pedestrian friendly redevelopment that has had such economic success in Montgomery Co. and Arlington. In the Brookings Institution study, A REGION DIVIDED, our portion of the metro area bears the burden of higher poverty, which is associated with higher taxes and fewer services. It is unfortunate that your vote today, can lock this area into lack of transportation and economic choice, instead of opening the door to prosperity.

In THE REGION DIVEDED, it is stated, "Of all the area's jurisdictions, Prince George's County is in the toughest bind; it must deal with both the high costs of social distress in inner Beltway communities and the high cost of new growth elsewhere in the county." Prince George's County must approach each planning decision with the desire to maximize the opportunity for its citizens quality of life and economic viability. In this excellent study, it is stated that our Washington metro region does have the tools to close the economic divide. Clearly, this WWBR is such a tool. Unfortunately, no rail at the WWBR, locks our community out of the opportunity for major redevelopment around rail stops that has proved so successful, and brought prosperity to other areas in our region.

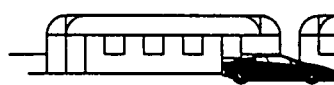
The state of MD has been a national leader in defining and implementing smart growth policies. Yet when one looks at the Washington Council of Governments job projections, for the next 25 years, there is a clear and obvious shortage of job investment projected for our area of southern Prince George's County. [in green handout]

Also, in prosperous areas, there is a real effort to balance open space and economic development. When one looks at the attached map, showing different jurisdictions access to the shoreline along the Potomac River, it is important to understand that openspace amenities are a necessary aspect of a high quality of life. It is distressing to compare Montgomery County's 100% public access to Prince George's 17% public access, within 12 miles of the White House, north and south along our Nation's river.

As you make this Critical Area decision today, we ask you to understand the long range environmal, economic and land use implications that will be influenced.

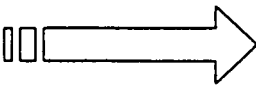
This decision will affect the entire Washington metro area and because it is the Nations Capital, will have national implications. As stated in THE REGION DIVIDED, "If our regional divisions widen as growth proceeds, it will be difficult if not impossible, to create a region that is competitive, prosperous and livable."

Woodrow Wilson Bridge



REPLACEMENT COMPARISON



OPTIONS 	SYMONDS TUNNEL (10 lanes + 2 for rail)	FHWA TUNNEL (12 lane, HOV)	12 LANE DRAWBRIDGE (HOV, no rail)
Completion date	Earliest, 2006 ¹	2007 ²	Earliest, 2006 ²
Capacity in 2007	220,000 ³	220,000 ³	220,000 ³
Construction cost, millions of 1999 \$	Tunnel 540 ¹ Interchanges 650 ⁴ Subtotal 1,190	Tunnel 1,500 Interchanges 2,100 Total 3,600 ²	Bridge 770 Interchanges 1,330 Total 2,100 ⁵
Operating and Maintenance cost	\$15 million /yr ¹	\$32.1 million /yr ²	\$12.8 million /yr ²
Traffic disruption due to drawbridge	No	No	Yes
Dredge spoils	2.6 m cubic yards ¹	3.4 m cubic yards ²	0.5 m cubic yards ⁵
Length	4,750 feet ¹	7,500 feet ²	6,075 feet ²
Depth, maximum	60 feet	75 feet	Not applicable
Ventilation	Longitudinal	Transverse with Towers	Not applicable
Impacts: Visual Noise	Lowest Low	Low Low	High High
Ventilation tower impacts	Not Applicable	High	Not Applicable
Env. Impacts: Short Term Long Term	High Lowest	Highest Low	High Highest

¹ Symonds Group, Ltd.

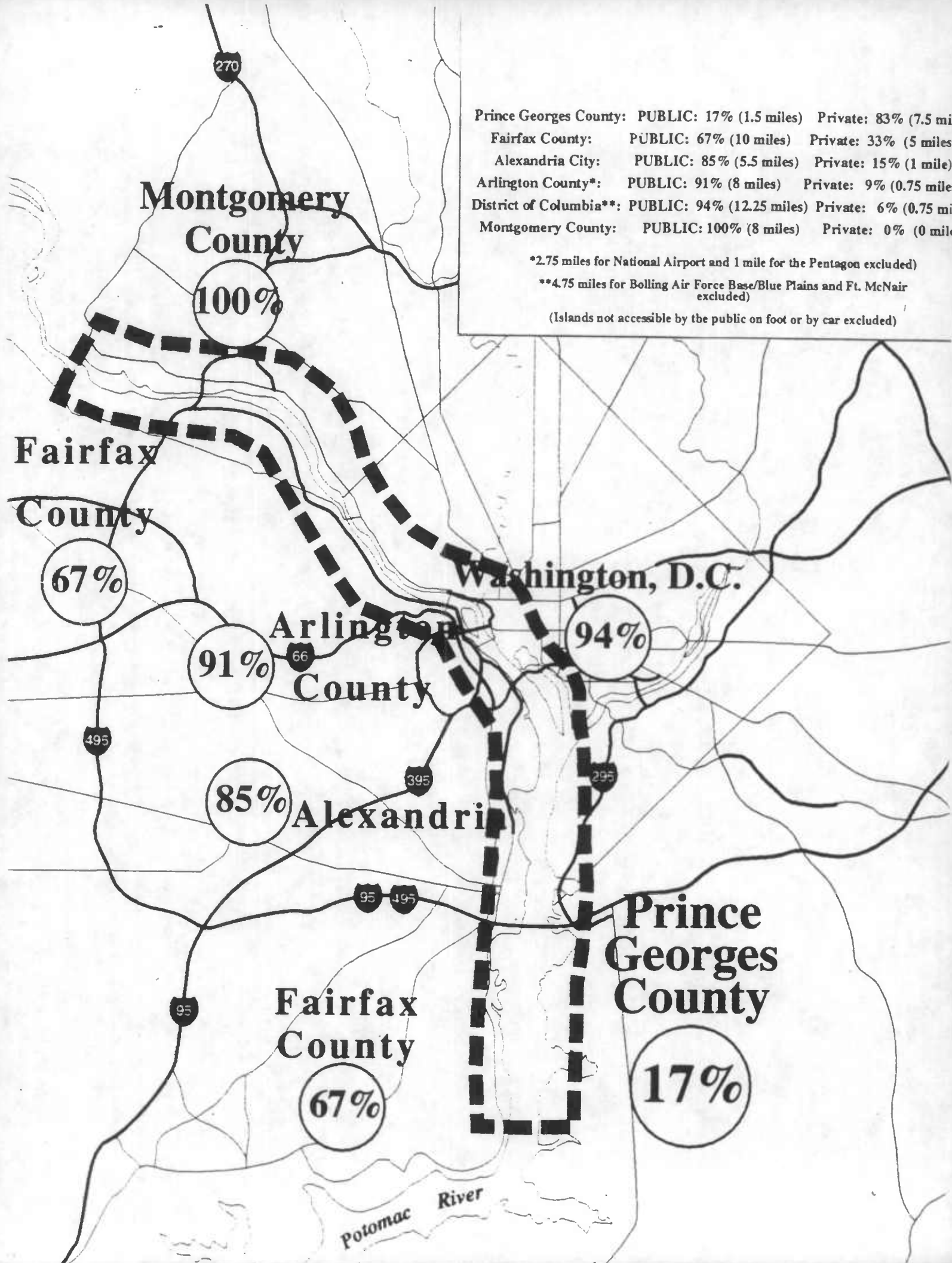
² Draft Environmental Impact Statement, Woodrow Wilson Bridge, 1996 (O/M adjusted for inflation)

³ 2000 vehicles/lane x 10 lanes x 1.1 persons/vehicle (nominal capacity) / 0.10 (peak hour to daily factor);

⁴ One-half the value used for the bridge, as a first estimate, considering that many fewer interchange ramps are needed.

⁵ U.S. Department of Transportation, Office of the Inspector General, September 27, 1999 (The cost of the 12-lane drawbridge w/HOV used in 1996 to compare to costs of a 12-lane tunnel was actually \$1.59 billion, 1996 DEIS).

For more information, contact Sierra Club at 703-312-0533, Coalition for Smarter Growth at 202-588-5570, or All Tunnel Alliance at 703-548-6220.



Prince Georges County:	PUBLIC: 17% (1.5 miles)	Private: 83% (7.5 miles)
Fairfax County:	PUBLIC: 67% (10 miles)	Private: 33% (5 miles)
Alexandria City:	PUBLIC: 85% (5.5 miles)	Private: 15% (1 mile)
Arlington County*:	PUBLIC: 91% (8 miles)	Private: 9% (0.75 mile)
District of Columbia**:	PUBLIC: 94% (12.25 miles)	Private: 6% (0.75 mile)
Montgomery County:	PUBLIC: 100% (8 miles)	Private: 0% (0 mile)

*2.75 miles for National Airport and 1 mile for the Pentagon excluded)

**4.75 miles for Bolling Air Force Base/Blue Plains and Ft. McNair excluded)

(Islands not accessible by the public on foot or by car excluded)

Chesapeake Bay Critical Area Commission

STAFF REPORT

July 5, 2000

APPLICANT: Department of Natural Resources

PROPOSAL: North Point State Park Phase II improvements

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Regina Esslinger

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.05, State Agency Actions Resulting in
Development on State-Owned Land

DISCUSSION:

DNR is proposing to begin the Phase II improvements at North Point State Park. Phase I, approved by the Commission in March 1998, was new infrastructure for the park, including roads, utilities, pathways, and stormwater management. The Phase II proposal is to:

1. Construct a multi-purpose building;
2. Construct a ranger residence;
3. Construct a contact station;
4. Demolish the existing visitor's center once the multi-purpose building is complete;
5. Demolish the existing ranger residence once the ranger residence is complete;
6. Demolish six existing bridge abutments; and
7. Resurface the main parking lot.

The total proposed disturbance is 1.75 acres, with clearing at 0.607 acres. All reforestation will occur on site within the Critical Area through natural regeneration in the same area where Phase I reforestation occurred.

Proposed new impervious surface is 20,000 square feet, while 4,000 square feet is proposed to be removed, for a net total of 16,000 square feet. The stormwater management basins approved as part of Phase I were designed to accomodate runoff from Phase II as well.

The existing visitor's center and ranger residence are currently in the Buffer. The replacement structures will be much farther back from the water. Once these structures are removed, the area

will be revegetated.

There are no known threatened or endangered plant and animal species that will be affected by the activities proposed under Phase II.

Baltimore County's Department of Environmental Protection and Resource Management has reviewed this project and has no comments. The project is consistent with the approved Master Plan.

CHESAPEAKE BAY CRITICAL AREA COMMISSION

STAFF REPORT

July 5, 2000

APPLICANT: St. Mary's College

PROPOSAL: St. Mary's College New Student Housing

JURISDICTION: St. Mary's County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Mary Owens

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.02.05: State Agency Actions Resulting in
Development on State-Owned Lands

DISCUSSION:

This project involves the construction of a new student housing facility as St. Mary's College. The project is needed to serve the expanding student population. The project involves the construction of a 46,000 square foot, three story facility that will provide housing for 216 students. The building is divided into suites that will accommodate groups of six, ten, and 14 students. The building includes approximately 5,000 square feet of community use area including study rooms, a kitchen, a recreation room, and a mechanical room.

The new facility will be located in an area that is currently developed with a gravel parking lot and associated stormwater management facility. The new structure will replace the parking lot and stormwater pond. Although, most of the project site is developed, this project involves the removal of approximately 17,440 square feet of forest. Currently, reforestation is proposed to be provided outside the Critical Area in an area adjacent to the forest mitigation provided for the recent Athletic Fields and Parking Lot Project (approved by the Commission in October 1999). Because St. Mary's College is considered an area of intense development, there are no specific reforestation provisions within the Critical Area.

The applicant's engineer has provided 10% rule calculations for the removal of 1.8 pounds of phosphorus. A bioretention facility is proposed to meet this pollutant removal requirement. The bioretention facility is designed to treat the first inch of runoff from approximately half of the

project site. It will be equipped with an underdrain system and planted with a variety of emergent and riparian trees, shrubs, and grasses in addition to numerous wetland plants.

The applicant received Stormwater Management and Sediment and Erosion Control Approval from the Maryland Department of the Environment on June 12, 2000.

The project will be constructed in an existing developed area, and there are no known threatened or endangered plant or animal species that will be affected by the project.

The project is consistent with COMAR 27.02.05, the Commission's regulations for State projects on State lands.

ST. MARY'S COLLEGE - NEW STUDENT HOUSING

PROJECT SITE

FOREST CLEARING
17,440 SQFT (0.40 ACRES)

NEW STUDENT
HOUSING

BASEBALL FIELD

GRAVEL PARKING LOT

SOCCER FIELD

SOCCER FIELD

ATHLETIC
FIELD

FIELD
HOCKEY

LACROSSE
FIELD

LACROSSE
FIELD

TENNIS
COURTS

PROPOSED REFORESTATION
AREA = 17,440 SQFT (0.40 ACRES)
FOR ST. MARY'S NEW STUDENT
HOUSING

PROPOSED REFORESTATION
AREA = 17,440 SQFT (0.40 ACRES)
FOR RECREATION CENTER OUTDOOR
FACILITY

MATTAPAN ROAD

Chesapeake Bay Critical Area Commission

STAFF REPORT

July 5, 2000

APPLICANT: Anne Arundel County

PROPOSAL: Amendment - Four Year Comprehensive Review
County Council Bill # 12-00 (Revision of Bill # 104-97)

COMMISSION ACTION: Vote

PANEL RECOMMENDATION: Pending Public Hearing

STAFF RECOMMENDATION: Approval

STAFF: Lisa Hoerger

**APPLICABLE LAW/
REGULATIONS:** Natural Resources Article §8-1809 (g)

DISCUSSION:

Anne Arundel County submitted County Council Bill # 12-00 as its four year comprehensive review. Bill # 12-00 amends the variance language and the civil fines and procedures, provides for impervious surface fees, adjusts clearing fees for residential lots less than one half acre, increases the violation fees, provides an RCA use list, and amends one section of the Program document. In addition, the County has provided the Commission staff with an updated set of 1000' scale maps depicting the 1000' Critical Area boundary and the three Critical Area designations.

Attached are County Council Bills # 104-97 and # 12-00 which include all the proposed changes to the County's ordinances and program document at this time. In 1997, the County Council passed Bill # 104-97 which was an earlier version of their comprehensive review. While the Commission did not act on this bill, it was still incorporated into the County's ordinances. The County has informed us that they have not been implementing the changes resulting from Bill # 104-97. Bill # 12-00 was written as an amendment to # 104-97. Bill # 12-00 includes issues in response to the meetings that staff and the panel have conducted with the County staff since the first bill (#104-97). Therefore, both bills are attached for your review.

This comprehensive review was due in 1996. Consequently, the next comprehensive review is due this year. County staff have indicated they will begin that process immediately.

The panel will conduct a public hearing on Thursday, June 29 where County staff will present the proposed changes. I have outlined those changes that will occur to Anne Arundel County's Critical Area Program as a result of Bills # 104-97 and # 12-00.

- 1) In Article 3, Title 2. Zoning Appeals, the County proposed an amendment to the variance language. The change clearly defines what is meant by "unique physical conditions". Many times applicants justify meeting this standard based on conditions of the applicant rather than the land. This language makes clear what constitutes an unwarranted hardship. This language is also amended in 11-102.1. Standards for granting variance.
- 2) The civil fines for violations of Article 21 and Article 28 were increased by the County to deter future violations. The previous fine for the first violation in the Buffer was \$50 and \$100 for the second violation. The county changed it to \$500 and \$1,000 respectively. Also, the County added language to establish how civil violations will be handled administratively.
- 3) Section 2-602. Violation --Without Permit was added by the County to provide the enforcement personnel with the ability to take corrective actions against the permittee, or if the violation was not the action of the permittee, to take corrective actions against the responsible party. The County has experienced numerous violations in the past that were not the actions of the property owner, but could not pursue actions against the responsible party. This language provides the County that ability.
- 4) The civil fines for Article 21, Title 2 Grading and Sediment Control were also increased and a provision was added to allow the County to hold liable anyone that commits a violation in the Buffer or expanded Buffer. These persons include the property owner, any person, contractor, employee, agent, or subcontractor.
- 5) In Article 28, Title 1A, the County included a list of uses that are permitted without growth allocation in the Resource Conservation Area (RCA). This list was provided at the Commission's request due to some inconsistencies that exist on some parcels or lots where the underlying zoning is inconsistent with the RCA designation. The Commission panel, staff and County staff carefully reviewed each proposed use and have agreed on those which appear in Bill # 12-00. In some instances, a particular use is limited by 20,000 square feet or 15% of the site.
- 6) Title 1A-105, Impervious surfaces; steep slopes; certain restricted uses. The County adopts the impervious surfaces limitations set out in the Critical Area Act and includes the fee-in-lieu.
- 7) Section 17-103. Civil citations and procedures. The County is amending the fines and procedures by which civil violations will be pursued.
- 8) The County's Critical Area Program document is proposed to be amended on page 17 where it refers to growth allocations. The words "shall" are being replaced with "should" in regard to adjacency, minimizing impacts, and 300-foot buffers. This change brings the County Program into consistency with the Critical Area Criteria. The original language in the County Program was stricter than required regarding the location of growth allocation.
- 9) In Article 21, 26 and 28, the County proposes amending definitions to the following

terms: contiguous sensitive areas, habitat protection areas, nontidal wetlands and tributary streams.

- 10) In Title 3. Stormwater Management the County is correcting inconsistencies with the Critical Area Criteria to make them conform. The inconsistencies relate to the 10% Pollutant Reduction Requirement and how stormwater is treated for Limited Development Areas (LDA) and Resource Conservation Areas (RCA).
- 11) In Section 3-303 of the Stormwater Article, the County is providing for waivers to stormwater quality in LDAs and RCAs.
- 12) In Section 1A-105, the County is allowing legal, residential lots that are one-half acre or less to clear up to 6,534 square feet (30% of one-half acre). This provision was added so that small lot owners would not be assessed the fee associated with clearing above 20%. The provision still meets the goal of no net loss of forest.
- 13) The language in Bill # 104-97 pertaining to modification of existing dwellings to accommodate the physically challenged was stricken and is not included in Bill # 12-00.

These changes constitute Anne Arundel County's Comprehensive Review. Staff are recommending approval. The panel recommendation is pending the public hearing.

FINAL

AMENDED
May 1, 2000

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2000, Legislative Day No. 6

Bill No. 12-00

Introduced by Mr. Klosterman, Chairman
(by request of the County Executive)

By the County Council, March 20, 2000

RECEIVED

JUN 19 2000

Introduced and first read on March 20, 2000

Public Hearing set for and held on April 17, 2000

Public Hearing on AMENDED BILL set for and held on June 5, 2000

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

By Order: Judy C. Holmes, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: The Chesapeake Bay Critical Area and Wetlands

2
3 FOR the purpose of amending the County's Chesapeake Bay Critical Area Program;
4 permitting only certain specified uses in Resource Conservation Area; providing that
5 County projects in the critical area comply with certain regulations; amending
6 definitions; amending the criteria for grant of a variance to the Chesapeake Bay Critical
7 Area Program; providing for a fee for increasing impervious surfaces under certain
8 circumstances; limiting clearing on certain residential lots in certain circumstances;
9 eliminating a procedure for modification of existing dwellings to accommodate the
10 physically challenged; increasing fines for certain violations of the Critical Area
11 Program; amending certain procedures for prosecuting civil citations for violation of the
12 Critical Area Program; making certain persons liable for certain violations of the Critical
13 Area Program; ~~adopting the County's Critical Area Program document~~; amending the
14 1988 Critical Area Program document; and generally relating to the Chesapeake Bay
15 Critical Area and Wetlands.

16
17 BY ~~repealing~~: Article 21, §2-301(j) and Article 28, §§1-101(66A) and 10-126
18 Anne Arundel County Code (1985, as amended)

19
20 BY repealing and reenacting, with amendments: Article 3, §2-107(b)(1); Article 11,
21 §6-102(d), (h), (i), and (j); Article 21, §§2-101(37A) and 2-608; and Article 28,
22 §§1A-105(b)(5)(v) and (h)(3)(vi); 11-102.1(b)(1); and 17-103(c) and (g)
23 Anne Arundel County Code (1985, as amended)

24
25 BY renumbering: Article 11, §6-102(e) through (g), (k) and (l) to be Article 11, §6-102(f)
26 through (h), (l) and (m), respectively; and Article 28, §§17-103(b), (d), (e), (f), (h),
27 (i), and (j) to be Article 28, §§17-103(c), (f), (g), (h), (j), (k), and (l), respectively
28 Anne Arundel County Code (1985, as amended)

29
30 BY adding: Article 11, §6-102(e); and Article 28, §§1A-103(g) and 17-103(b) and (e)
31 Anne Arundel County Code (1985, as amended)

EXPLANATION: CAPITALS indicate new matter added to existing law.
[Brackets] indicate matter stricken from existing law.
Underlining indicates amendments to bill.
~~Strikeover~~ indicates matter stricken from bill by amendment.

1 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*
2 That Article 21, §2-301(j) and Article 28, §§1-101(66A) and 10-126 of the Anne Arundel
3 County Code (1985, as amended) is are hereby repealed.

4
5 SECTION 2. *And be it further enacted,* That Article 11, §6-102(e) through (g) and (k)
6 and (l) of the Anne Arundel County Code (1985, as amended) is hereby renumbered to be
7 Article 11, §6-102(f) through (h) and (l) and (m), respectively; and Article 28, §17-102(b),
8 (d), (e), (f), (h), (i), and (j) of the Anne Arundel County Code (1985, as amended) is
9 hereby renumbered to be Article 28, §17-103(c), (f), (g), (h), (j), (k), and (l), respectively.

10
11 SECTION 3. *And be it further enacted,* That Section(s) of the Anne Arundel County
12 Code (1985, as amended) read as follows:

13
14 ARTICLE 3 COUNTY BOARD OF APPEALS
15 Title 2. Zoning Appeals

16
17 2-107. Standards for granting variance.

18
19 (b) For a property located in the critical area, a variance to the requirements of the
20 County critical area program may be granted after determining that:

21
22 (1) [due to the features of a site or other circumstances other than financial
23 considerations] BECAUSE OF CERTAIN UNIQUE PHYSICAL CONDITIONS, SUCH AS
24 EXCEPTIONAL TOPOGRAPHICAL CONDITIONS PECULIAR TO AND INHERENT IN THE
25 PARTICULAR LOT, OR IRREGULARITY, NARROWNESS, OR SHALLOWNESS OF LOT SIZE
26 AND SHAPE, strict implementation of the County's critical area program would result in an
27 unwarranted hardship to the applicant;

28
29 ARTICLE 11 CRIMES AND PUNISHMENTS
30 Title 6. General Penalty and Civil Fines

31
32 6-102. Civil fines.

33
34 (d) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THE [The] amount of
35 the civil fine for each civil violation of this Code is:

36
37 (1) for the first violation, \$50;

38
39 (2) for the second violation, \$100;

40
41 (3) for the third violation, \$150;

42
43 (4) for the fourth violation, \$200; and

44
45 (5) for each violation in excess of four, \$500.

46
47 (E) THE AMOUNT OF THE CIVIL FINE FOR EACH CIVIL VIOLATION OF ARTICLE 21 AND
48 ARTICLE 28 THAT OCCURS WITHIN THE BUFFER OR EXPANDED BUFFER ESTABLISHED IN
49 ARTICLE 21, §2-301(I) AND ARTICLE 28, §1A-104(a)(1) OF THIS CODE IS:

50
51 (1) FOR THE FIRST VIOLATION, \$500; AND

52
53 (2) FOR THE SECOND AND EACH SUBSEQUENT VIOLATION, \$1,000.

54
55 [h] (I) In any proceeding under this section for a civil violation:

56
57 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, the County

1 has the burden to prove the guilt of the defendant to the same extent as is required by law in
2 the trial of criminal causes;

3
4 (2) FOR CIVIL VIOLATIONS OF ARTICLE 21 AND ARTICLE 28 OF THIS CODE THAT
5 OCCUR WITHIN THE BUFFER OR EXPANDED BUFFER ESTABLISHED IN ARTICLE 21.
6 §2-301(I) AND ARTICLE 28, §1A-104(A)(1) OF THIS CODE, THE COUNTY HAS THE BURDEN TO
7 PROVE THE GUILT OF THE DEFENDANT BY CLEAR AND CONVINCING EVIDENCE;

8
9 [(2)] (3) the Court shall apply the evidentiary standards as prescribed by law or rule
10 for the trial of criminal causes;

11
12 [(3)] (4) the Court shall ensure that the defendant has received a copy of the charges
13 and that the defendant understands those charges;

14
15 [(4)] (5) the defendant is entitled to cross-examine all witnesses who appear against
16 the defendant and to produce evidence or witnesses or elect to testify in the defendant's
17 own behalf;

18
19 [(5)] (6) the defendant is entitled to be represented by counsel of the defendant's
20 own selection and at the defendant's own expense;

21
22 [(6)] (7) the defendant may enter a plea of guilty or not guilty, and the verdict of the
23 Court shall be guilty or not guilty; and

24
25 [(7)] (8) before rendering judgment the Court may place the defendant on probation in
26 the same manner and to the same extent as is permitted by law in the trial of a criminal cause.

27
28 (J) (1) When a defendant has been found guilty and the fine has been imposed by the
29 Court, the Court may direct that the payment of the fine be suspended or deferred under
30 conditions the Court may establish.

31
32 (2) When a defendant has been found guilty and willfully fails to pay the fine
33 imposed by the Court, that failure may be treated as criminal contempt of court for which
34 the defendant may be punished by the Court as provided by law.

35
36 [(j)] (K) (1) If a person is found by the District Court to have committed a violation, the
37 person shall be liable for the costs of the proceedings in the District Court.

38
39 (2) WHEN A DEFENDANT HAS BEEN FOUND GUILTY OF A CIVIL VIOLATION OF
40 ARTICLE 21 OR ARTICLE 28 OF THIS CODE THAT HAS OCCURRED WITHIN THE BUFFER OR
41 EXPANDED BUFFER ESTABLISHED IN ARTICLE 21, §2-301(I) OR ARTICLE 28, §1A-104(A)(1)
42 OF THIS CODE, THE COURT MAY ORDER THE DEFENDANT TO ABATE THE INFRACTION OR
43 TO PERMIT THE COUNTY TO ABATE THE INFRACTION AT THE OWNER'S EXPENSE.

44
45 ARTICLE 21 FLOODPLAIN MANAGEMENT,
46 SEDIMENT CONTROL, AND STORMWATER MANAGEMENT
47 Title 2. Grading and Sediment Control
48

49 ~~2-101. Definitions.~~

50
51 [(37A)] "Subdivided parcel" means any parcel that has been subdivided as defined in
52 Article 26, §1-101(54) of this Code INTO RECORDED LEGALLY BUILDABLE LOTS and that
53 meets all requirements of the Anne Arundel County subdivision regulations in effect on the
54 date the parcel was subdivided.]

1 2-602. Violation--Without permit.
2

3 (a) When there is a violation of this title on property where grading and clearing have
4 been undertaken without the required grading permit or plan, the Department may:
5

6 (1) place a stop-work order on the property; and
7

8 (2) issue a correction notice to the owner of the property OR OTHER
9 RESPONSIBLE PARTY to bring the site into compliance.
10

11 (b) The Department may require the owner of the property OR OTHER
12 RESPONSIBLE PARTY to completely restore all areas damaged as a result of the violation
13 without causing additional damage to affected or adjacent areas.
14

15 2-603. Same--With permit.
16

17 (a) When there is a violation of this title on property for which a grading permit has
18 been issued, the Department may issue a notice of noncompliance to the permittee or
19 OTHER responsible [personnel] PARTY setting forth the nature of the required corrections
20 and the time for completing those corrections.
21

22 (b) If the permittee OR OTHER RESPONSIBLE PARTY fails to act on a notice of
23 noncompliance within the prescribed time, the Department shall post a stop-work order on
24 the site. In the stop-work order, the Department may permit corrective work to proceed and
25 set forth an additional time for completing the required corrections. The Department shall
26 send a copy of the stop-work order by certified mail to the owner of the property and to the
27 permittee OR OTHER RESPONSIBLE PARTY.
28

29 (d) If the corrections are not completed within the time set forth in the stop-work order:
30

31 (1) the permittee OR OTHER RESPONSIBLE PARTY shall be considered in
32 default of the conditions imposed by this title;
33

34 (2) any cash security, including a check, shall be forfeited; and
35

36 (3) the Department may order payment by any third party providing security.
37

38 (e) The Department may require that the permittee OR OTHER RESPONSIBLE
39 PARTY restore all areas damaged as a result of the violation without causing additional
40 damage to affected or adjacent areas.
41

42 2-608. Civil fines.
43

44 (a) A person who violates any provision of [the] THIS article is subject to a civil fine as
45 provided in Article 11, Title 6 of this Code. Each day that a violation continues constitutes a
46 separate offense.
47

48 (b) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE [The] amount of
49 THE civil fine for each civil violation of this [Code] TITLE is:
50

51 (1) for the first violation, \$100;
52

53 (2) for the second violation, \$250;
54

55 (3) for the third violation, \$500; and
56

57 (4) for the fourth violation and each subsequent violation, \$1,000;

1 (C) THE AMOUNT OF THE CIVIL FINE FOR EACH CIVIL VIOLATION OF THIS TITLE THAT
2 OCCURS WITHIN THE BUFFER OR EXPANDED BUFFER ESTABLISHED IN §2-301(I) OF THIS
3 TITLE IS:

4
5 (1) FOR THE FIRST VIOLATION, \$500; AND

6
7 (2) FOR THE SECOND AND EACH SUBSEQUENT VIOLATIONS VIOLATION, \$1,000;

8
9 [(c)] (D) For the purpose of cumulating violations, each site at which violations are
10 occurring shall be considered separately, even if a person is violating the provisions of this
11 article at more than one site.

12
13 (E) IN ADDITION TO THE PROPERTY OWNER, ANY PERSON, CONTRACTOR, EMPLOYEE,
14 AGENT, OR SUBCONTRACTOR WHO COMMITS A CIVIL VIOLATION THAT OCCURS WITHIN
15 THE BUFFER OR EXPANDED BUFFER ESTABLISHED IN §2-301(I) OF THIS TITLE IS
16 SEPARATELY AND INDEPENDENTLY LIABLE FOR THAT VIOLATION.

17 18 ARTICLE 28 ZONING

19 Title 1A. Critical Area

20
21 1A-103. Critical area criteria.

22
23 (G) WITHIN THE CRITICAL AREA, COUNTY DEVELOPMENT PROJECTS SHALL COMPLY
24 WITH SUBTITLE 2 OF TITLE 27 OF THE CODE OF MARYLAND REGULATIONS.

25
26 ~~(G)~~ (H) USES WITHIN THE RESOURCE CONSERVATION AREA ARE LIMITED TO THE
27 FOLLOWING, PROVIDED THAT EACH USE IS ALLOWED IN THE UNDERLYING ZONE AND
28 MEETS ALL CONDITIONS AND APPROVALS SET FORTH IN THE UNDERLYING ZONE AND
29 ANY ADDITIONAL RESTRICTIONS SET FORTH IN THIS SECTION:

30
31 (1) ANIMAL HUSBANDRY;

32
33 (2) BED AND BREAKFAST HOMES LOCATED IN STRUCTURES EXISTING AS OF
34 DECEMBER 1, 1985, PROVIDED FOOD SERVICE IS LIMITED TO ROOM GUESTS;

35
36 (3) BED AND BREAKFAST INNS LOCATED IN STRUCTURES EXISTING AS OF
37 DECEMBER 1, 1985;

38
39 (4) BLACKSMITH ACCESSORY TO A FARM;

40
41 (5) BULK STORAGE FOR AGRICULTURAL PRODUCTS AS AN ACCESSORY USE TO A
42 FARM;

43
44 (6) CEMETERIES ASSOCIATED WITH A CHURCH EXISTING AS OF DECEMBER 1,
45 1985, PROVIDED IMPERVIOUS SURFACES ARE LIMITED TO 15% OF THE SITE OR 20,000
46 SQUARE FEET, WHICHEVER IS LESS;

47
48 (7) CHURCHES AND ANCILLARY USES ON A MINIMUM SITE OF TWO ACRES
49 PROVIDED IMPERVIOUS SURFACES ARE LIMITED TO 15% OF THE SITE OR 20,000 SQUARE
50 FEET, WHICHEVER IS LESS;

51
52 (8) CLAY AND BORROW PITS OR SAND OR GRAVEL OPERATIONS;

53
54 (9) COMMERCIAL TELECOMMUNICATIONS FACILITIES;

55
56 (10) COMMERCIAL WATERMAN USES, NOT INCLUDING PROCESSING OR PACKING;

57
58 (11) COMMUNITY BEACHES;

59
60 (12) COMMUNITY PIERS AND WATER-ORIENTED RECREATIONAL USES;

1 (13) CONSERVATION USES, PRACTICES, AND STRUCTURES FOR THE
2 MAINTENANCE OF THE NATURAL ENVIRONMENT OF PROPERTIES WITHIN THE RESOURCE
3 CONSERVATION AREA;

4
5 (14) DAIRIES;

6
7 (15) EXHIBITS SHOWING HISTORICAL SHORELINE ACTIVITIES OR DEVELOPMENT;

8
9 (16) FARM TENANT HOUSING AT A DENSITY NOT TO EXCEED ONE DWELLING FOR
10 EACH 50 ACRES OF EACH FARMING OPERATION;

11
12 (17) FARMING;

13
14 (18) FISH HATCHERIES;

15
16 (19) FORESTRY;

17
18 (20) FUR FARMING;

19
20 (21) GAME AND WILDLIFE PRESERVES NOT INCLUDING HUNTING, SHOOTING,
21 CLUBHOUSES, SALES AND MAINTENANCE BUILDINGS, AND PARKING, SUBJECT TO AN
22 APPROVED SOIL CONSERVATION PLAN;

23
24 (22) GOLF COURSES, NOT INCLUDING CLUBHOUSES, SALES AND MAINTENANCE
25 BUILDINGS, AND PARKING AREAS;

26
27 (23) GOVERNMENT BUILDINGS, STRUCTURES, FACILITIES, AND USES THAT
28 CANNOT BE LOCATED OUTSIDE THE RESOURCE CONSERVATION AREA;

29
30 (24) COMMERCIAL GREENHOUSES ACCESSORY TO A FARM;

31
32 (25) GROUP HOMES IN CLASSIFICATIONS ONE, TWO, AND THREE LIMITED TO NINE
33 RESIDENTS;

34
35 (26) HOME OCCUPATIONS;

36
37 (27) HORSES AND PONIES ON SITES LESS THAN 40,000 SQUARE FEET;

38
39 (28) KENNELS ON PROPERTIES OF AT LEAST SIX ACRES;

40
41 (29) LIVESTOCK;

42
43 (30) MARINAS IN EXISTENCE AS OF DECEMBER 1, 1985;

44
45 (31) NURSERY FARMS;

46
47 (32) OUTSIDE STORAGE THAT IS ACCESSORY AND INCIDENTAL TO USES
48 PERMITTED IN THE RESOURCE CONSERVATION AREA, NOT TO EXCEED 10% OF THE LOT
49 AREA OR 500 SQUARE FEET, WHICHEVER IS LESS;

50
51 (33) PRIVATE OR PUBLIC RESEARCH INSTITUTIONS PROVIDED THAT IMPERVIOUS
52 SURFACES ARE LIMITED TO 15% OF THE SITE OR 20,000 SQUARE FEET, WHICHEVER IS
53 LESS;

54
55 (34) PRIVATE RESOURCE UTILIZATION OR OUTDOOR EXPERIENCE CAMPS, NOT
56 INCLUDING RECREATIONAL VEHICLES;

57
58 (35) PRIVATE RESIDENTIAL PIERS;

59
60 (36) PRIVATE SWIMMING POOLS;

61
(37) PUBLIC BEACHES;

(38) PUBLIC PARKS, PLAYGROUNDS, AND OTHER RECREATIONAL USES;

(39) PUBLIC UTILITIES;

(40) RECREATIONAL PIERS;

(41) RIFLE, SKEET, OR ARCHERY RANGES NOT INCLUDING CLUBHOUSES, SALES AND MAINTENANCE BUILDINGS, AND PARKING;

(42) ROADSIDE STANDS WITH TEMPORARY SEASONAL STRUCTURES THAT SELL ONLY PRODUCE, NOT TO EXCEED 500 SQUARE FEET;

(43) SALE OF CHRISTMAS TREES BETWEEN DECEMBER 5 AND 25, NOT TO EXCEED ONE-HALF ACRE;

(44) SERVICE ORGANIZATIONS AND NONPROFIT CHARITABLE AND PHILANTHROPIC ORGANIZATIONS OR INSTITUTIONS PROVIDED THAT IMPERVIOUS SURFACES ARE LIMITED TO 15% OF THE SITE OR 20,000 SQUARE FEET, WHICHEVER IS LESS;

(45) SIGNS;

(46) SINGLE-FAMILY DETACHED DWELLINGS;

(47) STABLES, COMMERCIAL OR COMMUNITY, AND RIDING CLUBS, SUBJECT TO AN APPROVED SOIL CONSERVATION AND WATER QUALITY PLAN, NOT INCLUDING CLUBHOUSES, SALES AND MAINTENANCE BUILDINGS, AND PARKING AREAS;

(48) TEMPORARY NONPROFIT EVENTS, INCLUDING FAIRS, CARNIVALS, OR BAZAARS THAT DO NOT REQUIRE PERMANENT STRUCTURES PROVIDED THAT THE EVENT LASTS NO MORE THAN 30 DAYS AND THAT NO MORE THAN ONE EVENT IS HELD WITHIN A YEAR;

(49) UNENCLOSED STORAGE OF MANURE OR ODOR-PRODUCING OR DUST-PRODUCING SUBSTANCES OR USES, ON A MINIMUM SITE OF 10 ACRES, ACCESSORY TO A FARM;

(50) VETERINARY OFFICE ACCESSORY TO A FARM;

(51) WINERY ACCESSORY TO A FARM; AND

(52) YACHT CLUBS EXISTING AS OF DECEMBER 1, 1985.

1A-105. Impervious surfaces; steep slopes; certain restricted uses.

(b) (5) A property owner may exceed the impervious surface limits provided in paragraphs (1) and (2) of this subsection if the following conditions exist:

(v) the property owner performs on-site mitigation as required by the County to offset potential adverse water quality impacts from the new impervious surfaces, or the property owner pays a fee OF 60 CENTS PER SQUARE FOOT FOR EACH SQUARE FOOT OF IMPERVIOUS SURFACE OVER 15% OF THE AREA OF THE PARCEL [to the County instead of performing the on-site mitigation].

(h) Development activities in the critical area on legally existing lots, ~~subdivided parcels~~, and legally platted parcels of land of record on or before December 1, 1985, that have not otherwise been subject to critical area regulation are permitted if the following criteria are met:

(3) forest clearing and afforestation in the resource conservation area and limited development area shall be as follows:

(vi) for legal residential lots one-half acre or less in size that were in existence on or before December 1, 1985, clearing shall be limited to the minimum necessary to accommodate a house, septic system, driveway, and reasonable amount of yard PROVIDED THAT THE CLEARING DOES NOT EXCEED 6,534 SQUARE FEET, and mitigation shall be undertaken in the following order of preference:

1. on-site reforestation of an area equal to the area to be cleared;
2. off-site reforestation of an area equal to the area to be cleared; and
3. payment to the County of \$.60 for each square foot of forest area cleared;

Title 11. Rezoning, Special Exceptions, and Variances

11-102.1. Standards for granting variance.

(b) For a property located in the critical area, a variance to the requirements of the County critical area program may be granted if the Administrative Hearing Officer determines that:

(1) [due to the features of a site or other circumstances, other than financial considerations] BECAUSE OF CERTAIN UNIQUE PHYSICAL CONDITIONS, SUCH AS EXCEPTIONAL TOPOGRAPHICAL CONDITIONS PECULIAR TO AND INHERENT IN THE PARTICULAR LOT, OR IRREGULARITY, NARROWNESS, OR SHALLOWNESS OF LOT SIZE AND SHAPE, strict implementation of the County's critical area program would result in an unwarranted hardship to the applicant;

17-103. Civil citations and procedures.

(b) IN ADDITION TO THE PROPERTY OWNER, ANY PERSON, CONTRACTOR, EMPLOYEE, AGENT, OR SUBCONTRACTOR WHO COMMITS A CIVIL VIOLATION THAT OCCURS WITHIN THE BUFFER OR EXPANDED BUFFER ESTABLISHED IN §1A-104(A)(1) OF THIS ARTICLE IS SEPARATELY AND INDEPENDENTLY LIABLE FOR THAT VIOLATION.

[(c)] (D) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, the amount of THE civil fine for each violation of this article shall be as follows:

- (1) for the first violation, \$50;
- (2) for repeat civil violations, as follows:
 - (i) for the second violation, \$100;
 - (ii) for the third violation, \$150;
 - (iii) for the fourth violation, \$200; and
 - (iv) for each violation in excess of four, \$500.

(E) FOR CIVIL VIOLATIONS OF THIS TITLE OCCURRING WITHIN THE BUFFER OR EXPANDED BUFFER ESTABLISHED IN §1A-104(a)(1) OF THIS ARTICLE, THE AMOUNT OF THE CIVIL FINE FOR EACH VIOLATION SHALL BE AS FOLLOWS:

- (1) FOR THE FIRST VIOLATION, \$500; AND
- (2) FOR THE SECOND AND EACH SUBSEQUENT VIOLATION, \$1,000.

[(g)] (f) In any proceeding under this section for a violation:

(1) EXCEPT AS PROVIDED BY PARAGRAPH (2) OF THIS SUBSECTION, the County has the burden to [provide] PROVE the guilt of the defendant to the same extent as is required by law in THE trial of criminal causes;

(2) FOR ANY VIOLATION OF THIS TITLE THAT OCCURS WITHIN THE BUFFER OR EXPANDED BUFFER ESTABLISHED IN §1A-104(A)(1) OF THIS ARTICLE, THE COUNTY HAS THE BURDEN TO PROVE THE GUILT OF THE DEFENDANT BY CLEAR AND CONVINCING EVIDENCE.

[(2)] (3) the Court shall apply the evidentiary standards as prescribed by law or rule for THE trial of criminal causes;

[(3)] (4) the Court shall ensure that the defendant has received a copy of the charges [against him] and that the defendant understands those charges;

[(4)] (5) the defendant is entitled to cross-examine all witnesses who appear against [him,] THE DEFENDANT AND to produce evidence or witnesses [in his own behalf] or to ELECT TO testify in [his] THE DEFENDANT'S OWN behalf [if he elects to do so];

[(5)] (6) the defendant is entitled to be represented by counsel of the defendant's own selection and at the defendant's own expense;

[(6)] (7) the defendant may enter a plea of guilty or not guilty and the verdict of the Court shall be guilty or not guilty; and

[(7)] (8) before rendering judgment the Court may place the defendant on probation in the same manner and to the same extent as is permitted by law in the trial of a criminal cause.

~~SECTION 4. And be it further enacted, That the Program and Appendices described in Section 5 of Bill No. 49-88 are hereby amended by the "Critical Area Program Document, Anne Arundel County, Maryland - Addendum March 2000" incorporated herein by this reference as if fully set forth. A certified copy of said Program document shall be permanently kept on file in the office of the Administrative Officer to the County Council and in the Department of Planning and Code Enforcement.~~

SECTION 4. And be it further enacted, That the "Critical Area Program, Anne Arundel County, Maryland - August 22, 1988" is hereby amended as follows:

1. On page 17 of the document under "Growth Allocation", the second paragraph shall read as follows:

"New Intensely Developed Areas [shall] should be located in Limited Development Areas or adjacent to existing Intensely Developed Areas, and new Limited Development Areas [shall] should be located adjacent to existing Limited Development Areas or Intensely Developed Areas. New Intensely Developed and Limited Development Areas [shall] should be located to minimize impacts to habitat protection areas. [shall] should optimize benefits to water quality, and [shall] should minimize impacts to the defined land uses of the Resource Conservation Area. When new Intensely Developed or Limited Development Areas are developed in Resource Conservation Areas, under the allocation formula, they [shall] should be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters.

SECTION 5. ~~And be it further enacted, That if any provision or application of this Ordinance to any person or circumstance is declared by the Chesapeake Bay Critical Area Commission to be in conflict with the State's Critical Area Law or is held invalid for any reason in a court of competent jurisdiction, the conflict or invalidity does not affect other~~

1 provisions or any other application of this Ordinance that can be given effect without the
2 conflicting or invalid provision or application, and for this purpose the provisions of this
3 Ordinance are declared severable.

4
5 SECTION 6. *And be it further enacted*, That this Ordinance shall take effect 45 days
6 from the date of enactment or upon approval by the State Critical Area Commission,
7 whichever is later.

AMENDMENTS ADOPTED May 1, 2000

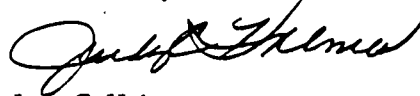
READ AND PASSED, as amended, this 5th day of June, 2000

By Order:



Judy C. Holmes
Administrative Officer

PRESENTED to the County Executive for her approval this 6th day of June, 2000



Judy C. Holmes
Administrative Officer

APPROVED AND ENACTED this 9 day of June, 2000



Janet S. Owens
County Executive

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.
12-00, THE ORIGINAL OF WHICH IS RETAINED IN THE FILES OF THE
COUNTY COUNCIL.



Judy C. Holmes
Administrative Officer

FINAL

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 1997, Legislative Day No. 38

Bill No. 104-97

Introduced by Mrs. Evans, Chairman
(by request of the County Executive)

By the County Council, December 1, 1997

Introduced and first read on December 1, 1997
Public Hearing set for and held on January 5, 1998

By Order: Judy C. Holmes, Administrative Officer

Date	7671	From	Eli	Co.	Phone #	Fax #
Post-It Fax Note	To Lisa	Co/Dept.		Phone #		Fax #

A BILL ENTITLED

1 AN ORDINANCE concerning: The Chesapeake Bay Critical Area and Wetlands

2
3 FOR the purpose of amending the County's Chesapeake Bay Critical Area Program;
4 amending and adding definitions; amending the pollutant loading requirements in the
5 Critical Area; permitting waivers of stormwater management quantity measures in
6 certain circumstances in the Critical Area; amending the impervious surface limitations
7 in the Critical Area; limiting the amount of clearing on certain grandfathered lots in the
8 Critical Area; exempting certain subdivided parcels from the critical area regulations;
9 providing for the stay of a grading permit issued in the Critical Area in certain
10 circumstances; permitting modifications of certain dwellings in the Critical Area to
11 accommodate the physically challenged; and generally relating to the Chesapeake Bay
12 Critical Area and Wetlands.

13
14 BY renumbering: Article 21, §§2-101(22E)(iii) through (v) and (37A) through (37D);
15 3-202(d)(7) and (8); and 3-303(f) to be Article 21, §§2-101(22E)(ii) through (iv).
16 (37B) through (37E), 3-202(d)(2) and (3), and 3-303(g), respectively; Article 26,
17 §1-101(27C)(iii) through (v) to be Article 26, §1-101(27C)(ii) through (iv); and Article
18 28, §§1-101(28B)(iii) through (v) and (66A) to be Article 28, §1-101(28B)(ii) through
19 (iv) and (66B), respectively
20 Anne Arundel County Code (1985, as amended.)

21
22 BY repealing: Article 21, §§2-101(22E)(ii) and 3-202(d)(2), (3), (4), (5), and (6); and
23 Article 26, §1-101(27C)(ii)
24 Anne Arundel County Code (1985, as amended)

25
26 BY adding: Article 21, §§2-101(22E)(v)8 and (37A); and 3-303(f); Article 26,
27 §1-101(27C)(v)8; and Article 28, §§1-101(28B)(v)8 and (66A); and 1A-105(b)(5) and
28 (6)
29 Anne Arundel County Code (1985, as amended)

EXPLANATION: CAPITALS indicate new matter added to existing law.
[Brackets] indicate matter stricken from existing law.

Bill No. 104-97
Page No. 2

BY repealing and reenacting, with amendments: Article 21, §§2-101(9B), (22E)(v)6 and 7, and (37E); 2-106(a); 2-301(j); 3-202(a); and 3-303(a); Article 26, §§1-101(9F), (27C)(v)6 and 7, and (57); and 3-110(b)(3)(i) and (k)(1); and Article 28, §§1-101(15D), (28B)(v)6 and 7, and (68E); 1A-105(b)(1) and (2) and (h); 1A-109(b)(2); and 10-126(a)
Anne Arundel County Code (1985, as amended)

SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland.* That Article 21, §§2-101(22E)(iii) through (v) and (37A) through (37D); 3-202(d)(7) and (8); and 3-303(f) of the Anne Arundel County (1985, as amended) are hereby renumbered to be Article 21, §§2-101(22E)(ii) through (iv) and (37B) through (37E); 3-202(d)(2) and (3); and 3-303(g), respectively: Article 26, §1-101(27C)(iii) through (v) is hereby renumbered to be Article 26, §1-101(27C)(ii) through (iv); and Article 28, §1-101(28B)(iii) through (v) and (66A) is hereby renumbered to be Article 28, §1-101(28B)(ii) through (iv) and (66B), respectively.

SECTION 2. *And be it further enacted.* That Article 21, §§2-101(22E)(ii) and 3-202(d)(2), (3), (4), (5) and (6); Article 26, §1-101(27C)(ii); and Article 28, §10-126(a), Anne Arundel County Code (1985, as amended) are hereby repealed.

SECTION 3. *And be it further enacted.* That Section(s) of the Anne Arundel County Code (1985, as amended) read as follows:

ARTICLE 21 FLOODPLAIN MANAGEMENT,
SEDIMENT CONTROL, AND STORMWATER MANAGEMENT
Title 2. Grading and Sediment Control

2-101. Definitions.

(9B) "Contiguous sensitive areas" means steep slopes, hydric soils, or highly erodible soils INCLUDING ANY APPLICABLE BUFFERS.

(22E) "Habitat protection area" means those areas of State and local significance that are identified by using the habitat assessment methodology found in the habitat assessment manual and that include:

(v) plant and wildlife habitats, including:

6. plant and wildlife habitats of local significance; [and]

7. wildlife corridors; AND

8. NONTIDAL WETLANDS.

(37A) "SUBDIVIDED PARCEL" MEANS ANY PARCEL THAT HAS BEEN SUBDIVIDED AS DEFINED IN ARTICLE 26, §1-101(54) OF THIS CODE AND THAT MEETS ALL REQUIREMENTS OF THE ANNE ARUNDEL COUNTY SUBDIVISION REGULATIONS IN EFFECT ON THE DATE THE PARCEL WAS SUBDIVIDED.

[(37E)] (37F) "Tributary streams" means perennial and intermittent streams in the critical area in the County that are shown on the most recent U.S. Geological Survey 7.5-minute topographic quadrangle maps, soil survey of Anne Arundel County or on County maps OR AS IDENTIFIED OR CONFIRMED BY FIELD INVESTIGATION BY THE DEPARTMENT OF PLANNING AND CODE ENFORCEMENT.

Bill No. 104-97
Page No. 3

2-106. Administrative appeals.

(a) (1) EXCEPT AS SET FORTH IN PARAGRAPH (3) OF THIS SUBSECTION, [This] THIS section applies only to grading permits that are issued for sites that are two or more acres in size and on which clearing or grading will result in the loss or diminution of substantial and significant natural features or irreparable environmental harm.

(2) EXCEPT AS SET FORTH IN PARAGRAPH (3) OF THIS SUBSECTION, [This] THIS section does not apply to a grading permit for a single lot that is part of a larger site with an active or completed grading permit that provides for site improvements and future development of single lots.

(3) THIS SECTION APPLIES TO ALL GRADING PERMITS ISSUED WITHIN THE BUFFER OR EXPANDED BUFFER.

2-301. Erosion and sediment control.

(j) Development and grading activities in the critical area on legally existing lots, SUBDIVIDED PARCELS, and legally platted parcels of land of record on or before December 1, 1985 that have not otherwise been subject to critical area regulation are permitted in accordance with the following limitations:

(1) all development in any habitat protection area shall be pursuant to a variance in accordance with Article 8, §2-107 or Article 28, §11-102.1 of this Code with the following exceptions:

(i) for property within a buffer exemption area, a variance is not required for development within the 100-foot buffer or expanded buffer, but is required for newly developed impervious surface located in any other habitat protection area as defined in §2-101 of this article; and

(ii) water-dependent facilities;

(2) except for renovations or new accessory structures described in subsection (k) of this section, in resource conservation areas and limited development areas, new principal structures, additions or renovations to existing principal structures, or accessory structures are permitted with the approval of the [Office of Planning and Zoning] DEPARTMENT OF PLANNING AND CODE ENFORCEMENT in accordance with the following additional locational criteria:

(i) all buffers for the preservation or enhancement of the environment are maximized;

(ii) siting in areas of existing native or wooded vegetation is to be avoided whenever possible;

(3) forest clearing and afforestation shall be as follows:

(i) for a site that has 20% or less of its area cleared, mitigation shall be undertaken in the following order of preference:

1. on-site reforestation of an area equal to the area cleared;

2. off-site reforestation of an area equal to the area cleared;

3. payment to the County of \$5.60 for each square foot of forest area cleared;

Bill No. 104-97
Page No. 3

1 2-106. Administrative appeals.
2

3 (a) (1) EXCEPT AS SET FORTH IN PARAGRAPH (3) OF THIS SUBSECTION, [This] THIS
4 section applies only to grading permits that are issued for sites that are two or more acres in
5 size and on which clearing or grading will result in the loss or diminution of substantial and
6 significant natural features or irreparable environmental harm.
7

8 (2) EXCEPT AS SET FORTH IN PARAGRAPH (3) OF THIS SUBSECTION, [This] THIS
9 section does not apply to a grading permit for a single lot that is part of a larger site with an
10 active or completed grading permit that provides for site improvements and future
11 development of single lots.
12

13 (3) THIS SECTION APPLIES TO ALL GRADING PERMITS ISSUED WITHIN THE
14 BUFFER OR EXPANDED BUFFER.
15

16 2-301. Erosion and sediment control.
17

18 (j) Development and grading activities in the critical area on legally existing lots.
19 SUBDIVIDED PARCELS, and legally platted parcels of land of record on or before December
20 1, 1985 that have not otherwise been subject to critical area regulation are permitted in
21 accordance with the following limitations:
22

23 (1) all development in any habitat protection area shall be pursuant to a variance in
24 accordance with Article 8, §2-107 or Article 28, §11-102.1 of this Code with the following
25 exceptions:
26

27 (i) for property within a buffer exemption area, a variance is not required for
28 development within the 100-foot buffer or expanded buffer, but is required for newly
29 developed impervious surface located in any other habitat protection area as defined in
30 §2-101 of this article; and
31

32 (ii) water-dependent facilities;
33

34 (2) except for renovations or new accessory structures described in subsection (k)
35 of this section, in resource conservation areas and limited development areas, new principal
36 structures, additions or renovations to existing principal structures, or accessory structures
37 are permitted with the approval of the [Office of Planning and Zoning] DEPARTMENT OF
38 PLANNING AND CODE ENFORCEMENT in accordance with the following additional
39 locational criteria:
40

41 (i) all buffers for the preservation or enhancement of the environment are
42 maximized;
43

44 (ii) siting in areas of existing native or wooded vegetation is to be avoided
45 whenever possible;
46

47 (3) forest clearing and afforestation shall be as follows:
48

49 (i) for a site that has 20% or less of its area cleared, mitigation shall be
50 undertaken in the following order of preference:
51

52 1. on-site reforestation of an area equal to the area cleared;
53

54 2. off-site reforestation of an area equal to the area cleared;
55

56 3. payment to the County of \$5.60 for each square foot of forest area cleared;

Bill No. 104-97
Page No. 4

1 (ii) for a site that has more than 20% to and including 30% of its forest area
2 cleared, mitigation shall be undertaken in the following order of preference:

- 3
4 1. on-site reforestation at 1.5 times the area cleared;
5
6 2. off-site reforestation at 1.5 times the area cleared; or
7
8 3. payment to the County of \$.90 for each square foot of area cleared;
9

10 (iii) for a site that has more than 30% of its forest area cleared, mitigation shall
11 be undertaken in the following order of preference:

- 12
13 1. on-site reforestation at three times the area cleared;
14
15 2. off-site reforestation at three times the area cleared; or
16
17 3. payment to the County of \$1.80 for each square foot of area cleared;
18

19 (iv) for a site that has less than 15% of its area forested, afforestation shall be
20 required to cover a minimum of 15% of the site with the posting of security for planting at a
21 rate of \$.40 per square foot;

22 (v) reforestation and afforestation planting shall be:

- 23 1. established first within the 100-foot buffer if feasible; and
24
25 2. with a combination of trees, shrubs, and ground cover that is first
26 approved by the [Office of Planning and Zoning] DEPARTMENT OF PLANNING AND CODE
27 ENFORCEMENT.
28

29 (4) in a resource conservation area or limited development area, the location of
30 impervious surface may be reconfigured but may not be increased in excess of the limits set
31 forth in Article 28, §1A-105(a) of this Code;
32

33 (5) development on a parcel that does not have an existing natural buffer within 100
34 feet of the shoreline and does not necessitate the clearing of natural vegetation shall have a
35 buffer reestablished in accordance with the following:
36

37 (i) the area to be planted shall be equal to the impervious area that will be
38 developed outside the 100-foot buffer and three times the impervious area that will be
39 developed within the 100-foot buffer;
40

41 (ii) a buffer management plan shall be approved by the [Office of Planning and
42 Zoning] DEPARTMENT OF PLANNING AND CODE ENFORCEMENT and an agreement shall be
43 entered into with the County that includes security posted for the replanting at a rate of \$.40
44 per square foot; and
45

46 (iii) the planting shall consist of a combination of trees, shrubs, and ground
47 cover that is first approved by the [Office of Planning and Zoning] DEPARTMENT OF
48 PLANNING AND CODE ENFORCEMENT;
49

50 (6) all development shall be undertaken strictly in accordance with Article 21, Title
51 3 of this Code;
52

53 (7) except as provided in subsection (k) of this section, in intensely developed
54 areas, new principal structures, additions or renovations to existing principal structures, or
55
56

Bill No. 104-97
Page No. 5

1 accessory structures are permitted with the approval of the Department of Planning and
2 Code Enforcement in accordance with the following:

3
4 (i) all development in the 100-foot buffer or the expanded buffer shall be
5 pursuant to a variance in accordance with Article 3, §2-107 or Article 28, §11-102.1 of this
6 Code with the following exceptions:

7
8 1. for property within a buffer exemption area, a variance is not required for
9 development within the 100-foot buffer or expanded buffer, but is required for newly
10 developed impervious surface located in any other habitat protection area as defined in
11 §2-101 of this article; and

12
13 2. water-dependent facilities;

14
15 (ii) buffers for the preservation or enhancement of the environment shall be
16 maximized; and

17
18 (iii) siting in areas of existing native or wooded vegetation is to be avoided
19 whenever possible; and

20
21 (8) where required by this title, a grading permit is obtained before construction
22 commences.

23
24 Title 3. Stormwater Management

25
26 3-202. Criteria.

27
28 (a) An applicant shall install or construct stormwater management facilities for a
29 proposed development to meet the minimum performance requirement for managing
30 increased runoff so that:

31
32 (1) the two-year and 10-year predevelopment peak discharge rates are not exceeded
33 and predevelopment volume is not exceeded in 36 hours for sites in the critical area;

34
35 (2) accelerated channel erosion will not occur as a result of the proposed
36 development; [and]

37
38 (3) water quality will be improved for sites WITHIN INTENSELY DEVELOPED AREAS
39 in the critical area as follows:

40
41 (i) [in intensely developed areas.] pollutant loadings from impervious surfaces
42 shall be reduced by at least 10%; [and]

43
44 (ii) [in limited development areas and resource conservation areas, stormwater
45 runoff from impervious surfaces may not cause downstream property, watercourses,
46 channels, or conduits to receive stormwater runoff at a higher volume or rate than would
47 have resulted from a 10-year storm were the land in a predevelopment state.]
48 REDEVELOPMENT SHALL HAVE POLLUTANT LOADING REDUCED BY AT LEAST 10%
49 BELOW THE LEVEL OF POLLUTION FROM THE SITE PRIOR TO REDEVELOPMENT;

50
51 (iii) NEW DEVELOPMENT SHALL HAVE POLLUTANT LOADING REDUCED BY AT
52 LEAST 10% BELOW THE LEVEL OF POLLUTION FROM THE SITE PRIOR TO DEVELOPMENT;

53
54 (iv) NEW DEVELOPMENT ACTIVITY AND REDEVELOPMENT WITHIN INTENSELY
55 DEVELOPED AREAS SHALL BE UNDERTAKEN IN ACCORDANCE WITH THE DESIGN
56 MANUAL AND TECHNICAL REPORT TITLED "A FRAMEWORK FOR EVALUATING
57 COMPLIANCE WITH THE 10% RULE IN THE CRITICAL AREA", ADMINISTERED BY THE

02/23/1998 11:14 J102221781

PAGE 07

Bill No. 104-97

Page No. 6

1 CHESAPEAKE BAY CRITICAL AREA COMMISSION, BUT WHERE IT IS IMPRACTICAL TO USE
2 THE RECOMMENDATIONS IN THE TECHNICAL REPORT. ALTERNATIVE METHODS TO
3 ACHIEVE A 10% REDUCTION MAY BE USED;

4
5 (V) ALL COMPUTATIONS AND DATA NECESSARY TO ENSURE THAT ANY
6 DEVELOPMENT OR REDEVELOPMENT MEETS THE 10% POLLUTANT REDUCTION
7 REQUIREMENT SHALL BE PROVIDED BY THE DEVELOPER TO THE DEPARTMENT FOR
8 APPROVAL; AND

9
10 (VI) OFFSETS PERMITTED BY THE DESIGN MANUAL AND TECHNICAL REPORT
11 IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH MAY BE USED EITHER ON-SITE OR OFF-SITE
12 IN THE SAME CRITICAL AREA-WATERSHED TO REACH THE 10% POLLUTANT REDUCTION
13 REQUIREMENT OF THIS SUBSECTION; AND

14
15 (4) IN LIMITED DEVELOPMENT AREAS AND RESOURCE CONSERVATION AREAS
16 WITHIN THE CRITICAL AREA, STORMWATER RUNOFF FROM IMPERVIOUS SURFACES MAY
17 NOT CAUSE DOWNSTREAM PROPERTY, WATERCOURSES, CHANNELS, OR CONDUITS TO
18 RECEIVE STORMWATER RUNOFF AT A HIGHER VOLUME OR RATE THAN WOULD HAVE
19 RESULTED FROM A 10-YEAR STORM WERE THE LAND IN A PREDEVELOPMENT STATE.

20
21 3-303. Waivers.

22
23 (a) [Except in the critical area, the] THE Department may grant a waiver to the
24 requirements of this title provided that a written request is submitted by the applicant that
25 contains site location project plans and description, specific justifications, runoff
26 computations and design details, and any other information the Department determines
27 necessary to evaluate the proposed request.

28
29 (F) THE FOLLOWING ADDITIONAL CRITERIA SHALL APPLY TO WAIVERS GRANTED IN
30 THE CRITICAL AREA:

31
32 (1) THE PROPERTY MUST BE LOCATED IN A LIMITED DEVELOPMENT AREA OR A
33 RESOURCE CONSERVATION AREA;

34
35 (2) WAIVERS MAY BE GRANTED FOR QUANTITY MEASURES ONLY;

36
37 (3) QUANTITY STORMWATER MANAGEMENT AND INFILTRATION REQUIREMENTS
38 OF THE CODE ARE NOT FEASIBLE DUE TO THE SLOW INFILTRATION RATE OF THE SOILS
39 OR SIMILAR PHYSICALLY LIMITING CONDITIONS; AND

40
41 (4) THERE IS AN ADEQUATE OUTFALL.

42
43 ARTICLE 26 SUBDIVISIONS

44 Title 1. Definitions; General Provisions

45
46 1-101. Definitions.

47
48 (9F) "Contiguous sensitive areas" means steep slopes, hydric soils, or highly
49 erodible soils INCLUDING ANY APPLICABLE BUFFERS.

50
51 (27C) "Habitat protection area" means those areas of State and local significance
52 that are identified by using the habitat assessment methodology found in the habitat
53 assessment manual and that include:

54
55 (v) plant and wildlife habitats, including:

56
57 6. plant and wildlife habitats of local significance; {and}

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PAGE 08

Bill No. 104-97

Page No. 7

1 7. wildlife corridors; AND

2
3 8. NONTIDAL WETLANDS.

4
5 (57) "Tributary streams" means perennial and intermittent streams in the critical area
6 in the County that are shown on the most recent U.S. Geological Survey seven-and-one-
7 half-minute topographic quadrangle maps, soil survey of Anne Arundel County, or on
8 County maps OR AS IDENTIFIED OR CONFIRMED BY FIELD INVESTIGATION BY THE
9 DEPARTMENT OF PLANNING AND CODE ENFORCEMENT.

10
11 Title 3. Design Standards and Requirements

12
13 3-110. Critical area environmental controls.

14
15 (b) Within [the] intensely developed resource conservation areas and limited
16 development areas the following criteria shall be met:

17
18 (3) Pollutant loading shall be reduced in redevelopment areas by at least 10% below
19 the level of pollution from the site prior to redevelopment; and in new development areas by
20 at least 10% of the predevelopment levels, in accordance with the following:

21
22 (i) This subsection shall apply to new construction and to redevelopment
23 activity ONLY within intensely developed areas;

24
25 (k) The following applies to the use of impervious surfaces and steep slopes:

26
27 (1) Impervious areas shall be limited [to 15% of a development site when a
28 proposed development activity in the critical area is to be located in limited or resource
29 conservation areas] AS SET FORTH IN ARTICLE 28. §1A-105 OF THIS CODE; and

30
31 ARTICLE 28 ZONING

32 Title 1. General Provisions

33
34 1-101. Definitions—Generally.

35
36 (15D) "Contiguous sensitive areas" means steep slopes, hydric soils, or highly
37 erodible soils INCLUDING ANY APPLICABLE BUFFERS.

38
39 (28B) "Habitat protection area" means those areas of State and local significance
40 that are identified by using the habitat assessment methodology found in the habitat
41 assessment manual and that include:

42
43 (v) plant and wildlife habitats, including:

44
45 6. plant and wildlife habitats of local significance; [and]

46
47 7. wildlife corridors; AND

48
49 8. NONTIDAL WETLANDS.

50
51 (66A) "SUBDIVIDED PARCEL" MEANS ANY PARCEL THAT HAS BEEN SUBDIVIDED
52 AS DEFINED IN ARTICLE 26. §1-101(54) OF THIS CODE AND THAT MEETS ALL
53 REQUIREMENTS OF THE ANNE ARUNDEL COUNTY SUBDIVISION REGULATIONS IN EFFECT
54 ON THE DATE THE PARCEL WAS SUBDIVIDED.

55
56 (68E) "Tributary streams" means perennial and intermittent streams in the critical
57 area in the County that are shown on the most recent U.S. Geological Survey seven-and-

Bill No. 104-97
Page No. 8

one-half-minute topographic quadrangle maps, soil survey of Anne Arundel County, or on County maps OR AS IDENTIFIED OR CONFIRMED BY FIELD INVESTIGATION BY THE DEPARTMENT.

Tide 1A. Critical Area

1A-105. Impervious surfaces; steep slopes; certain restricted uses.

(b) (1) man-made impervious surfaces associated with a parcel of land that is one-half acre or less [and was used or was zoned for residential purposes] on or before December 1, 1985, may be increased to 25% of the parcel [for that use];

(2) [man-made impervious surfaces associated with a parcel of land that is one-quarter acre or less and was used for non-residential purposes on or before December 1, 1985, may be increased to 25% of the parcel for that use] IF A PARCEL OR LOT GREATER THAN ONE-HALF ACRE AND LESS THAN ONE ACRE IN SIZE EXISTED ON OR BEFORE DECEMBER 1, 1985, THEN MAN-MADE IMPERVIOUS SURFACES ARE LIMITED TO 15% OF THE PARCEL OR LOT.

(5) A PROPERTY OWNER MAY EXCEED THE IMPERVIOUS SURFACE LIMITS PROVIDED IN PARAGRAPHS (1) AND (2) OF THIS SUBSECTION IF THE FOLLOWING CONDITIONS EXIST:

(I) NEW IMPERVIOUS SURFACES ON THE PROPERTY HAVE BEEN MINIMIZED;

(II) FOR A LOT OR PARCEL ONE-HALF ACRE OR LESS IN SIZE, TOTAL IMPERVIOUS SURFACES DO NOT EXCEED IMPERVIOUS SURFACE LIMITS IN PARAGRAPH (1) OF THIS SUBSECTION BY MORE THAN 25% OR 500 SQUARE FEET, WHICHEVER IS GREATER;

(III) FOR A LOT OR PARCEL GREATER THAN ONE-HALF ACRE AND LESS THAN ONE ACRE IN SIZE, TOTAL IMPERVIOUS SURFACES DO NOT EXCEED IMPERVIOUS SURFACE LIMITS IN PARAGRAPH (2) OF THIS SUBSECTION OR 5,445 SQUARE FEET, WHICHEVER IS GREATER;

(IV) WATER QUALITY IMPACTS ASSOCIATED WITH RUNOFF FROM THE NEW IMPERVIOUS SURFACES HAVE BEEN MINIMIZED THROUGH SITE DESIGN CONSIDERATIONS OR USE OF BEST MANAGEMENT PRACTICES APPROVED BY THE COUNTY TO IMPROVE WATER QUALITY; AND

(V) THE PROPERTY OWNER PERFORMS ON-SITE MITIGATION AS REQUIRED BY THE COUNTY TO OFFSET POTENTIAL ADVERSE WATER QUALITY IMPACTS FROM THE NEW IMPERVIOUS SURFACES, OR THE PROPERTY OWNER PAYS A FEE TO THE COUNTY INSTEAD OF PERFORMING THE ON-SITE MITIGATION.

(6) ALL FEES COLLECTED UNDER PARAGRAPH (5)(V) OF THIS SUBSECTION SHALL BE USED TO FUND PROJECTS THAT IMPROVE WATER QUALITY WITHIN THE CRITICAL AREA.

(h) Development activities in the critical area on legally existing lots, SUBDIVIDED PARCELS, and legally platted parcels of land of record on or before December 1, 1985, that have not otherwise been subject to critical area regulation are permitted if the following criteria are met:

(1) all development in any habitat protection area shall be permitted pursuant to a variance in accordance with Article 3, §2-107 of this Code or §11-102.1 of this article with the following exceptions:

Bill No. 104-97
Page No. 9

(i) for property within a buffer exemption area, a variance is not required for development within the 100-foot buffer or expanded buffer, but is required for newly developed impervious surface located in any other habitat protection area as defined in § 1-101 of this article; and

(ii) water-dependent facilities;

(2) except for renovations or new accessory structures described in subsection (j) of this section, in the resource conservation areas and limited development areas, new principal structures, additions or renovations to existing principal structures, or accessory structures are permitted with the approval of the [Office of Planning and Zoning] DEPARTMENT in accordance with the following additional locational criteria:

(i) all buffers for the preservation or enhancement of the environment are maximized;

(ii) siting in areas of existing native or wooded vegetation is avoided whenever possible; and

(3) forest clearing and afforestation in the resource conservation area and limited development area shall be as follows:

(i) for a site that has 20% or less of its area cleared, mitigation shall be undertaken in the following order of preference:

1. on-site reforestation of an area equal to the area cleared;
2. off-site reforestation of an area equal to the area cleared; or
3. payment to the County of \$.60 for each square foot of forest area cleared;

(ii) for a site that has more than 20% to and including 30% of its forest area cleared, mitigation shall be undertaken in the following order of preference:

1. on-site reforestation at 1.5 times the area cleared;
2. off-site reforestation at 1.5 times the area cleared; and
3. payment to the County of \$.90 for each square foot of area cleared;

(iii) for a site that has more than 30% of its forest area cleared, mitigation shall be undertaken in the following order of preference:

1. on-site reforestation at three times the area cleared;
2. off-site reforestation at three times the area cleared; or
3. payment to the County of \$1.80 for each square foot of area cleared;

(iv) for a site that has less than 15% of its area forested, afforestation shall cover a minimum of 15% of the site in accordance with an agreement with the County that includes posting of security for the afforestation at a rate of \$.40 per square foot;

(v) reforestation and afforestation planting shall be:

1. established first within the 100-foot buffer if feasible; and

02/23/1998 11:14 4102221761

PAGE 11

Bill No. 104-97

Page No. 10

2. with a combination of trees, shrubs, and ground cover that is first approved by the [Office of Planning and Zoning] DEPARTMENT.

(VI) FOR LEGAL RESIDENTIAL LOTS ONE-HALF ACRE OR LESS IN SIZE THAT WERE IN EXISTENCE ON OR BEFORE DECEMBER 1, 1985, CLEARING SHALL BE LIMITED TO THE MINIMUM NECESSARY TO ACCOMMODATE A HOUSE, SEPTIC SYSTEM, DRIVEWAY, AND REASONABLE AMOUNT OF YARD, AND MITIGATION SHALL BE UNDERTAKEN IN THE FOLLOWING ORDER OF PREFERENCE:

1. ON-SITE REFORESTATION OF AN AREA EQUAL TO THE AREA TO BE CLEARED;

2. OFF-SITE REFORESTATION OF AN AREA EQUAL TO THE AREA TO BE CLEARED; AND

3. PAYMENT TO THE COUNTY OF \$.60 FOR EACH SQUARE FOOT OF FOREST AREA CLEARED;

(4) in a resource conservation area or limited development area, the location of impervious surface may be reconfigured but may not be increased in excess of the limits set forth in subsection (a) of this section;

(5) development on a parcel that does not have an existing natural buffer within 100 feet of the shoreline and does not necessitate the clearing of natural vegetation shall have a buffer reestablished in accordance with the following:

(i) the area to be planted shall be equal to the impervious area that will be developed outside the 100-foot buffer and three times the impervious area that will be developed within the 100-foot buffer;

(ii) a buffer management plan SHALL BE approved by the [Office of Planning and Zoning] DEPARTMENT, including an agreement with the County securing the replanting at a rate of \$.40 per square foot;

(iii) the planting shall consist of a combination of trees, shrubs, and ground cover first approved by the [Office of Planning and Zoning] DEPARTMENT;

(6) all development shall be undertaken strictly in accordance with Article 21, Title 3 of this Code;

(7) all water-dependent facilities shall comply with §10-123 of this article;

(8) except as provided in Article 21, §2-301(j)(9) of this Code, new principal structures, additions or renovation to existing principal structures, or accessory structures in intensely developed areas are permitted with the approval of the [Office of Planning and Zoning] DEPARTMENT if:

(i) except for water-dependent facilities or in a buffer exemption area as set forth in §1A-109 of this title, all development in any habitat protection area, including the 100-foot buffer or the expanded buffer, as described in §1A-104(a)(1) of this title shall be pursuant to a variance in accordance with §2-107 of Article 3 of this Code or §11-102.1 of this article;

(ii) all buffers for the preservation or enhancement of the environment shall be maximized;

02/23/1998 11:14 4102221761

PAGE 12

Bill No. 104-97

Page No. 11

(iii) siting in areas of existing native or wooded vegetation shall be avoided whenever possible; and

(iv) all water-dependent facilities shall comply with §10-123 of this article; and

(9) a grading permit must be obtained before construction commences, in accordance with Article 21, Title 2 of this Code.

1A-109. Buffer exemption and enhancement program.

(b) A buffer exemption may be applied on:

(2) legally recorded lots, SUBDIVIDED PARCELS or parcels within the mapped buffer exemption area that were created on or before December 1, 1985.

Title 10. Miscellaneous Regulations

10-126. Modification of existing dwellings to accommodate the physically challenged.

(a) [The provisions of this section do not apply to Title 1A of this article.] WITHIN THE CRITICAL AREA, THE DIRECTOR MAY AUTHORIZE A REDUCTION IN THE LOT COVERAGE, BUFFER, AND HABITAT PROTECTION AREA REQUIREMENTS OF THIS ARTICLE SO THAT IMPROVEMENTS OR MODIFICATIONS FOR ACCESSIBILITY TO EXISTING DWELLINGS MAY BE PROVIDED IN ORDER TO ACCOMMODATE A PHYSICALLY CHALLENGED RESIDENT PROVIDED THE FOLLOWING CRITERIA ARE MET:

(1) DUE TO THE FEATURES OF THE SITE OR OTHER CIRCUMSTANCES OTHER THAN FINANCIAL CONSIDERATIONS, STRICT IMPLEMENTATION OF THE COUNTY'S CRITICAL AREA PROGRAM WOULD RESULT IN AN UNWARRANTED HARDSHIP TO THE APPLICANT;

(2) A LITERAL INTERPRETATION OF THE CODE OF MARYLAND REGULATIONS, TITLE 27, SUBTITLE 01, CRITERIA FOR LOCAL AREA CRITICAL AREA PROGRAM DEVELOPMENT, OR THE COUNTY CRITICAL AREA PROGRAM AND RELATED ORDINANCES WILL DEPRIVE THE APPLICANT OF THE RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES IN SIMILAR AREAS WITHIN THE CRITICAL AREA OF THE COUNTY;

(3) THE APPLICANT WILL NOT RECEIVE ANY SPECIAL PRIVILEGE THAT WOULD BE DENIED BY COMAR, TITLE 27, SUBTITLE 01 OR THE COUNTY CRITICAL AREA PROGRAM TO OTHER LANDS OR STRUCTURES WITHIN THE COUNTY CRITICAL AREA;

(4) THE APPLICATION:

(I) IS NOT BASED ON CONDITIONS OR CIRCUMSTANCES THAT ARE THE RESULT OF ACTIONS BY THE APPLICANT; AND

(II) DOES NOT ARISE FROM ANY CONDITION RELATING TO LAND OR BUILDING USE, EITHER PERMITTED OR NON-CONFORMING, ON ANY NEIGHBORING PROPERTY;

(5) GRANTING OF THE APPLICATION:

(I) WILL NOT ADVERSELY AFFECT WATER QUALITY OR FISH, WILDLIFE, OR PLANT HABITAT WITHIN THE COUNTY'S CRITICAL AREA;

(II) WILL BE IN HARMONY WITH THE GENERAL SPIRIT AND INTENT OF THE COUNTY CRITICAL AREA PROGRAM;

02/23/1998 11:14 4102221761

PAGE 13

Bill No. 104-97

Page No. 12

1 (III) WILL NOT SUBSTANTIALLY IMPAIR THE APPROPRIATE USE OR
2 DEVELOPMENT OF ADJACENT PROPERTY:

3
4 (IV) WILL NOT BE CONTRARY TO ACCEPTABLE CLEARING AND REPLANTING
5 PRACTICES REQUIRED FOR DEVELOPMENT IN THE CRITICAL AREA; AND

6
7 (V) WILL NOT BE DETRIMENTAL TO THE PUBLIC WELFARE; AND

8
9 (6) THE REDUCTION IS THE MINIMUM NECESSARY TO AFFORD RELIEF.

10
11 SECTION 4. *And be it further enacted*, That if any provision or application of this
12 Ordinance to any person or circumstance is declared by the Chesapeake Bay Critical Area
13 Commission to be in conflict with the State's Critical Area Law within the meaning of
14 §8-1809(1) of the Natural Resources Article of the State Code or is held invalid for any
15 reason in a court of competent jurisdiction, the conflict or invalidity does not affect other
16 provisions or any other application of this Ordinance that can be given effect without the
17 conflicting or invalid provision or application, and for this purpose the provisions of this
18 Ordinance are declared severable.

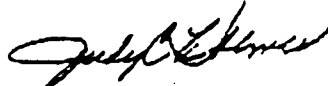
19
20 SECTION 5. *And be it further enacted*, That this Ordinance shall take effect 45 days
21 from the date it becomes law.

AMENDMENT ADOPTED January 20, 1998

AMENDMENT RECONSIDERED AND DEFEATED February 2, 1998

READ AND PASSED this 17th day of February, 1997

By Order:


Judy C. Holmes
Administrative Officer

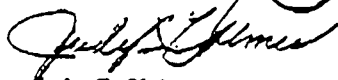
PRESENTED to the County Executive for his approval this 18th day of February, 1997


Judy C. Holmes
Administrative Officer

APPROVED AND ENACTED this 18th day of February, 1997


John Gary
County Executive

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.
104-97, THE ORIGINAL OF WHICH IS RETAINED IN THE FILES OF THE
COUNTY COUNCIL.


Judy C. Holmes
Administrative Officer

Pr. George's, Arundel Air Among Worst In the Nation

By EUGENE L. MEYER
Washington Post Staff Writer

Anne Arundel and Prince George's counties have the worst ozone air pollution in the Washington area and are among the worst in the country, said a study released yesterday by the American Lung Association.

The study also found that the Washington-Baltimore area, which includes Northern Virginia, is the seventh most ozone-polluted region in the country. The most polluted region was Los Angeles-Riverside-Orange County.

High levels of ozone can pose serious health risks, including coughing, headaches, nausea, shortness of breath, wheezing, and eye and throat irritation, said Steven Schoenfeld, a physician and president of the American Lung Association of Maryland.

Particularly at risk are the young and elderly and people with respiratory problems. In the Washington-Baltimore region, that includes nearly one-third of the 6.4 million residents who are younger than 14 or older than 65.

Ozone levels run high in the region because of the increasing number of vehicles on the roads. The region also receives a significant amount of ozone from emissions originating in the Ohio Valley, where power plants give off hydrocarbons and nitrous oxides.

See OZONE, B4, Col. 1

How the Region Compares

Anne Arundel and Prince George's counties have the worst ozone air pollution in the Washington area, according to a recent study. How local jurisdictions compare with the most-polluted county in the nation, San Bernardino, Calif.:

Three-year totals

Days	Anne Arundel	Prince George's	The District	Fairfax	San Bernardino
Code orange (Unhealthy for sensitive groups)	69	53	44	41	138
Code red (Unhealthy)	21	8	4	8	88
Code purple (Very unhealthy)	2	1	1	0	81

NOTE: Code orange: 0.085 to 0.104 parts per million; code red: 0.105 to 0.124 parts per million; code purple: 0.125 to 0.374 parts per million

SOURCE: U.S. Environmental Protection Agency, based on data collected from 1996 to 1998.

THE WASHINGTON POST

Vehicle Pollution Called Big Part of Ozone Problem

OZONE, From B1

Based on data collected from 1996 to 1998, Anne Arundel ranked 11th worst among 678 counties nationwide monitored by the U.S. Environmental Protection Agency. Prince George's tied for 24th worst with Ocean County, N.J., and Wake County, N.C.

Nowhere else in Maryland was among the top 25 most-polluted counties. But Calvert and Montgomery counties and Baltimore were among 11 jurisdictions in the state that received an F grade for their large number of high-ozone days.

In Virginia, Fairfax County had the worst ozone pollution and received an F. Arlington and Prince William counties and Alexandria also received F's, but they were not ranked within the state. The study did not measure Loudoun County.

Anne Arundel's levels are high because it is downwind of Washington, which has many cars on the road and where emissions blow from the Midwest. Weather fronts that form over Chesapeake Bay also keep pollutants in Anne Arundel.

"Anne Arundel's in a bad place," said Bill Ryan, a meteorologist with the University of Maryland. "No matter which way the wind blows, it's going to be downwind of the I-95 corridor. And in summer, when the winds are from the southwest, it is downwind of D.C."

Prince George's emissions also contribute to Anne Arundel's problem. Auto emissions from downtown Washington mix with Prince George's, and by the time they react with sunlight to form ozone, the air mass has moved on to Anne Arundel. There, bay breezes blowing in the opposite direction cause stagnation, Ryan said.

For those at risk for breathing problems, health experts advise limiting strenuous outdoor activities to the early morning, before ozone levels rise.

"Keep the kids indoors when ozone conditions are bad," said Lisa Fronc, an Annapolis pediatrician.

"On high-ozone days, we see almost a doubling in the number of cases of children and adults with asthma flares coming into doctors' offices and emergency rooms," Fronc said.

"We know it's a lung irritant and causes inflammation. The effect on the lungs is the same as sunburn on your skin. It can cause damage to the lung tissue and interfere with the lung's ability to fight infection."

To improve air quality, Ryan said, hydrocarbons and nitrous oxides must be controlled at the source, such as in the Ohio Valley.

Increasingly crowded highways also pose a problem. "What's happened with cars," Ryan said, "they're getting cleaner. But people are driving them farther, and there are more of them."

Chesapeake Bay Critical Area Commission

STAFF REPORT

July 5, 2000

APPLICANT: City of Fruitland

PROPOSAL: Fruitland Comprehensive Review

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Approval

STAFF: Tracey Greene, LeeAnne Chandler

PANEL RECOMMENDATION: Approval

PANEL MEMBERS: Samuel Q. Johnson, Joe Jackson, Clinton Bradley, and Bill Corkran

**APPLICABLE LAW/
REGULATIONS:** Natural Resources Article §8-1809(g)

DISCUSSION:

The City of Fruitland has a total of forty acres of land within the Critical Area. Thirty eight acres are undeveloped. Despite the small amount of land within the Critical Area, Fruitland was required to prepare and adopt a full Critical Area Program and Ordinance. As such, it requires a comprehensive review every four years. To alleviate the unnecessary administrative burden of doing a typical comprehensive review, the City (working with the Circuit Rider and Commission staff) has adopted a streamlined Critical Area ordinance to replace their existing Program and Ordinance. It contains only those aspects of the Criteria that are applicable to the City's Critical Area. For example, the 40 acres are designated LDA. Only those aspects of the Criteria relative to LDA are included in the ordinance. There are no Buffers or other Habitat Protection Areas within the City limits. The ordinance, along with the City's official Critical Area map, will be considered the City's Critical Area Program. A copy of the signed ordinance is included in the mailing.

All requests for building permits or other approvals within the Critical Area will be sent to the City's Circuit Rider for review and recommendations.

The City's original Program was adopted in 1994. The City Planning Commission and Council held a joint public hearing with the Critical Area Commission panel on May, 9, 2000. No public comments were received.

ORDINANCE NO. 194

OF THE

CITY OF FRUITLAND

AN ORDINANCE TO REPEAL ORDINANCE
NO. 169, AND TO IMPLEMENT THE CITY'S
CHESAPEAKE BAY CRITICAL AREA PROGRAM

WHEREAS, the City of Fruitland has, within its corporate limits, five properties constituting approximately forty acres of land within the Chesapeake Bay Critical Area of which approximately thirty-eight acres are undeveloped; and,

WHEREAS, there are no immediate plans for the extension of municipal water and sewer lines to serve any of the undeveloped subject properties, consequently making the undeveloped properties less readily available for development; and

WHEREAS, although the City of Fruitland has a healthy respect for and supports the goals and objectives of the Maryland Chesapeake Bay Critical Area Act and Criteria, the City Council believes that, in view of available public facilities and applicable laws and restrictions, the imposition of a lengthy Critical Area Program would not substantially improve the protection of tidal water quality or the conservation of fish, wildlife or plant habitats;

WHEREAS, the City wishes to repeal Ordinance No. 169 which created the City's Chesapeake Bay Critical Area Program and, to adopt the following Critical Area requirements for development or redevelopment within the City limits as they now stand and as they may be changed by annexation; and

WHEREAS, the City attempted to accomplish this same purpose by the enactment of Ordinance No. 191 which, not having been approved by the Maryland Chesapeake Bay Critical Area Commission on or before the 1st day of May, 2000, has, by its own terms, become null and void *ab initio*.

NOW, THEREFORE, be it Enacted and Ordained by the City Council of the City of Fruitland, Maryland, as follows, to-wit:

1. That Ordinance No. 169 is hereby **REPEALED**;
2. That the City shall accomplish the following goals of the Critical Area Act through implementation of the provisions contained in this ordinance;
 - A. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

- B. Conserve fish, wildlife and plant habitat; and
- C. Ensure that development in the Chesapeake Bay Critical Area accommodates growth and also addresses the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

3. That the City does hereby adopt the following requirements which shall apply to all development or redevelopment within the Chesapeake Bay Critical Area:

- A. The portion of the City within the Critical Area shall be designated as Limited Development Area (LDA).
- B. The legally recorded parcels of land within the City of Fruitland that existed as of December 1, 1985, shall be considered to be "grandfathered" under COMAR 27.01.02.07.
- C. Any lands in the Critical Area proposed for annexation into the City shall be designated as LDA, through the growth allocation process if necessary, prior to annexation.
- D. Provisions for establishing and maintaining buffers along shoreline areas and for designating shoreline areas that are appropriate for public access, water related recreation, and water dependent facilities are not included in this Ordinance because there are no shoreline or buffer areas within the City of Fruitland's Critical Area. In the future, if land is annexed that includes shoreline or buffer areas, this resolution shall be amended.
- E. Forest and developed woodlands which are cleared must be replaced on an equal area basis for clearing up to twenty percent (20%) of the forest or developed woodland. For forest and developed woodland clearing between twenty percent (20%) and thirty percent (30%), the forest or developed woodland must be replanted at one and one half (1.5) times the total area extent of the forest or developed woodland. For forest and developed woodland clearing in excess of thirty percent (30%), the forest or developed woodland must be replanted at three (3) times the total area extent of the cleared forest or developed woodland. If a sediment and erosion control permit is required and if any cutting or clearing of forest and developed woodland occurs before a sediment and erosion control permit is obtained, the forest or developed woodland must be replanted at three (3) times the total area extent of the cleared area. Mitigation shall be consistent with the standards outlined in "I" below.
- F. If a site is less than fifteen (15) percent forested, then at least fifteen (15) percent of the gross site area shall be afforested. The location of the afforested area should be designed to reinforce protection to habitats on the site or to

provide connections between forested areas when they are present on adjacent sites. Mitigation shall be consistent with the standards outlined in "I" below.

G. The City will advise applicants for project development or redevelopment to contact the U.S. Fish and Wildlife Service and the Maryland Department of Natural Resources for the requirements of federal and state law with respect to rare, threatened or endangered species.

H. Man-made impervious surfaces shall be limited to 15 percent of a parcel or lot, except as provided below for "grandfathered" parcels as defined by Section of COMAR 21.01.02.07:

LOT/PARCEL SIZE IN SQUARE FEET	IMPERVIOUS SURFACE LIMIT
0 - 8,000	25% of parcel + 500 square feet
8,001 - 21,780	31.25% of parcel with mitigation as described in "I" below
21,781 - 36,300	5,445 square feet
36,301 - 43,560	15% of parcel

I. Mitigation requirements:

AREA OF DISTURBANCE	PLANTING REQUIREMENT
0 - 300 square feet	1 tree
301 - 600 square feet	2 trees
601 - 900 square feet	3 trees
901 - 1,200 square feet	4 trees
1,201 - 1,500 square feet	5 trees
over 1,500 square feet	1 tree per 300 square feet

Note: At least 50% of the mitigation requirement must be trees of at least three (3) feet in height. All remaining mitigation can be accomplished through the use of shrubs of at least three (3) gallons in size. Three (3) shrubs receive the same amount of credit as one (1) tree. The use of native plant species is recommended.

J. Clearing or grading activities disturbing over 5,000 square feet of land area or disturbance of more than 100 cubic yards of earth requires a sediment and erosion control permit from the Wicomico County Soil Conservation Service.


K. All harvesting of timber in the Chesapeake Bay Critical Area shall be in accordance with plans approved by the district forestry board.



- L. In order to ensure that development and redevelopment proposals in the Critical Area comply with the Chesapeake Bay Critical Area Act and Criteria, insofar as possible, and the requirements herein, all requests for building permits, project approvals and proposals for subdivision and all other proposals for development or redevelopment within the Critical Area **SHALL** be referred to the Maryland Office of Planning Circuit Rider or other designee and no such building permit nor plan approval shall be issued nor granted by the City until such time as the said Circuit Rider or other designee has supplied comments and recommendations to the City or thirty (30) days have passed from the date of referral, whichever shall first occur.
- M. Local government projects shall be consistent with the provisions of COMAR 27.02.02 and 27.02.04.
- N. Definitions of terms used in this Ordinance shall be those contained in COMAR 27.01.01.


This Ordinance shall become effective upon acceptance and approval by the Maryland Chesapeake Bay Critical Area Commission, **PROVIDED HOWEVER THAT** if such approval be not acknowledged on or before the 1st day of September, 2000, this Ordinance shall be null and void *ab initio*.

The above Ordinance was introduced and given first reading before the City Council of the City of Fruitland, Maryland at its regularly scheduled City Council Meeting held on the 11th day of April, 2000, and finally passed at a regular scheduled meeting of the City Council held on the 9th day of May, 2000, having been published and a public hearing held as required by law in the intervening time.

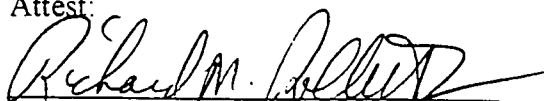
CITY COUNCIL OF THE CITY OF FRUITLAND


Theodore O. Lokey, Council President


Council Members

Attest:


Richard M. Pollitt, Jr., City Clerk

Chesapeake Bay Critical Area Commission

STAFF REPORT

July 5, 2000

APPLICANT: Talbot County

PROPOSAL: Refinement - Talbot County Council Bill # 762
Joint Review Process

COMMISSION ACTION: Concurrence

STAFF RECOMMENDATION: Concur with Chairman's Determination

STAFF: Lisa Hoerger

**APPLICABLE LAW/
REGULATIONS:** Natural Resources Article §8-1809 (p)

DISCUSSION:

The Talbot County Council Bill # 762 establishes procedures for awarding supplemental growth allocation to the municipalities in Talbot County. In 1989, the County provided each municipality with a limited number of growth allocation acres. Since 1989, the Town of Easton has used most of its original allocation. In anticipation of future growth, the Town will request additional acres in the near future. Last year the town requested additional acres but was denied by the County.

Subsequent to that time, the County has established a joint review process that it will conduct with each town when considering allotting additional growth allocation. The new joint review process will include the Planning Commissions, the Talbot County Council, Town Commissions, and any other Commission involved at the local level.

Bill No. 762 is consistent with COMAR 27.01.02.06 A (2) which states:

When planning future expansion of intensely developed and limited development areas, counties, in coordination with affected municipalities, shall establish a process to accommodate the growth needs of the municipalities.

Chairman North requests your concurrence that Bill # 762 is a refinement to Talbot County's Critical Area Program since it is consistent with the Criteria.

1 A BILL TO ESTABLISH PROCEDURES FOR AWARDED SUPPLEMENTAL
2 GROWTH ALLOCATION TO MUNICIPALITIES IN TALBOT COUNTY,
3 MARYLAND.
4
5

6 SECTION ONE: BE IT ENACTED, by the County Council of Talbot County, that
7 Title 19-14 (c) (iv) (c) [i] be repealed and re-enacted to establish procedures for awarding
8 supplemental growth allocation to municipalities in Talbot County, Maryland, as follows:
9
10

11 [i] Not more than 1,213 acres of the Critical Areas of the County, including
12 all land lying within the Critical Area within incorporated towns, shall be reclassified
13 from the Rural Conservation (RC) District (or town zoning districts established for the
14 Resource Conservation Area of the Critical Area) to any other zoning district. Of these
15 1,213 acres, 155 acres is reserved for the Town of Easton, 195 acres is reserved for the
16 Town of Oxford, 245 acres is reserved for the Town of St. Michaels for growth allocation
17 associated with annexations, and 618 acres is reserved for the County.
18

19 When 1,092 acres (ninety [90] percent of 1,213 acres) has been approved for growth
20 allocation by the Towns and/or the County, then the County shall request permission
21 from the Maryland Critical Area Commission to double the maximum number of acres
22 that may be reclassified from the Rural Conservation District (or comparable town
23 districts) from 1,213 to 2,426 acres. Upon Critical Area Commission approval, the
24 County shall reserve acreage for each town.
25

26 If the commission approves the doubling of the number of acres that may be rezoned
27 under this Section, the County will have its full allocation of 2,554 acres for growth as
28 specified in the County's Critical Area Plan, that is 1,213 acres (original limit) + 1,213
29 acres (potential additional limit) + 128 acres (amount reserved in Section [j] below =
30 2,554 acres). The Maryland Critical Area law does not allow for the full 2,426 acre
31 allocation (1,213 + 1,213) at the time of the establishment of this Section (August 13,
32 1989).
33

34 Upon request for supplemental growth allocation by any municipal corporation within the
35 County, the County Council may transfer growth allocation to the municipal corporation
36 and may impose such conditions, restrictions, and limitations upon the use of any such
37 supplemental growth allocation, if any, as the Council may consider appropriate. All such
38 requests shall comply with the following requirements.
39

40 [1] Application Process. The applicant shall file their application with the
41 municipality. In addition to complying with all municipal requirements, the applicant
42 shall also provide the information required by § 19.14 (c) (iv) [b] of the Talbot County
43 Zoning Ordinance, as amended, and shall also comply with the design standards set forth
44 in § 19.14 (c) (iv) [b] [1] through [9], of the Talbot County Zoning Ordinance, as
45 amended. The municipality shall forward the application to the County Council for
46 consideration and review within five (5) working days.
47

48 [2] Staff and Planning Commission Review. The planning staff and the
49 Planning Commission shall review the application in accordance with the procedures set
50 forth in § 19.14 (c) (iv) (c) [1] through [4], except that municipal and county staff reports
51 shall be forwarded to the Planning Commissions of both jurisdictions and the planning
52 staff shall schedule a joint hearing on the application before the Planning Commissions of
53 both jurisdictions. The designated chairperson of each Planning Commission shall co-
54 chair the hearing. Each Planning Commission shall vote separately and make its
55 recommendations to its respective council or commission. Each Planning Commission
56 shall provide a copy of its recommendations to the other jurisdiction.
57

58 [3] Council Review. The county and municipal councils or commissions
59 shall hold a joint hearing on the application, co-chaired by the designated chairperson of
60 each council or commission which may be coordinated jointly with the Critical Area
61 Commission. The county and municipal councils or commissions shall make their

respective decisions separately as independent entities. The County Council shall evaluate the application in accordance with § 19.14 (c) (iv) [d].

[4] Amendments to Approved Projects. Any amendment to an approved project shall be subject to County Council review and approval for a period of five (5) years following the date of initial approval.

BE IT FURTHER ENACTED, that this Ordinance shall become effective sixty (60) days following its enactment.

PUBLIC HEARING

Having been posted and Notice of time and place of hearing and Title of Bill No. 762 having been published, a public hearing was held on Tues. April 18, 2000

BY THE COUNCIL

Read the third time.

ENACTED April 25, 2000 *
AS AMENDED

By Order

Secretary

Spence -	<u>aye</u>
Dyott -	<u>aye</u>
Foster -	<u>aye</u>
Higgins -	<u>aye</u>
Harrison -	<u>aye</u>

Chesapeake Bay Critical Area Commission

STAFF REPORT

July 5, 2000

APPLICANT: Wicomico County

PROPOSAL: Refinement - River Woods Growth Allocation

COMMISSION ACTION: Concurrence

STAFF RECOMMENDATION: Approval with conditions

STAFF: LeeAnne Chandler

**APPLICABLE LAW/
REGULATIONS:** COMAR 27.01.02.06 - Location and Extent of Future
Intensely Developed and Limited Development Areas

DISCUSSION:

Wicomico County is proposing to use 20.5 acres of growth allocation to change the Critical Area designation on Tax Map 46, Parcel 116 from RCA to LDA. Presently, the property is partially forested and partially in agricultural use. The proposed use is a residential subdivision with 5 lots within the Critical Area portion of the site. (The small number of lots is due to soils unsuitable for on-site septic systems.)

The property includes the 100-foot Buffer to "My Lord's Creek" and the Buffer is completely forested. Three of the five lots are platted partially within the Buffer. There are no other habitat protection areas that would be impacted by this development. Land use surrounding the parcel is partially LDA (a residential area directly across the street) and partially RCA (agricultural and forested lands). The Commission approved a request for growth allocation on the adjacent property in December 1999. The entire acreage of the parcel within the Critical Area is being deducted from the County's growth allocation total.

With appropriate mitigation for forest clearing, the proposed project meets the requirements for growth allocation as stated in the Wicomico County ordinance and will be consistent with COMAR 27.01.02.06 and the Commission's policy on growth allocation. Wicomico County's process for awarding growth allocation incorporates the subdivision approval process. The County's Planning Commission has already reviewed and approved this project and it will not be forwarded to the Commission for subdivision review after the growth allocation is approved.

Staff recommends approval of this refinement with a condition that the final plat contain appropriate notes stating that mitigation is required for forest clearing within the Critical Area and that no disturbance is permitted within the Buffer to My Lord's Creek.

CHESAPEAKE BAY CRITICAL AREA COMMISSION

STAFF REPORT

July 5, 2000

APPLICANT: Dorchester County

PROPOSAL: Zoning Ordinance and Subdivision Regulations Text Amendments

JURISDICTION: Dorchester County

COMMISSION ACTION: Concurrence with Chairman's Determination

STAFF RECOMMENDATION: Approval

STAFF: Mary Owens

**APPLICABLE LAW/
REGULATIONS:** Annotated Code of Maryland, Natural Resources Article §8-1809(h): Proposed program amendments and refinements

DISCUSSION:

Dorchester County has completed a review of their zoning ordinance and subdivision regulations and has made several changes. The purpose of these changes is to correct some omissions, eliminate conflicting language and clarify some ambiguous provisions. The County forwarded a series of 14 ordinances to the Commission, some of which have do not significantly affect land use or development within the Critical Area.

After reviewing the 14 ordinances, identified as Ordinances A through N, they have been divided into three categories. The first category involves five resolutions that directly and significantly affect development activities and land use within the Critical Area and represent changes to the County's Critical Area Program. The second category involves five resolutions that indirectly affect development activities and land use within the Critical Area, but do not significantly change the County's Critical Area Program. The third category involves four resolutions that do not directly affect development activities within the Critical Area and do not change the County's Critical Area Program.

In the first category which represents significant changes to the County's Critical Area Program, the ordinances can be summarized as follows:

Ordinance A involves numerous changes to the Use Table in the County's zoning ordinance and includes changes to require growth allocation for new cemeteries, churches, commercial marinas and piers in the RCA. Other changes include identifying fisheries as a permitted use in the RCA, requiring a special exception for seafood processing facilities, and requiring that public park and recreation areas in the RCA be reviewed by the Critical Area Commission. In addition, there are changes to permit storage, but not habitation, of recreational vehicles as an accessory structure or use; to require parking lot markings; to permit small retail stores in the B-2 zoning district; and to specify setbacks for animal impoundment areas.

Ordinance B involves the identification of certain agricultural uses and structures as water dependent facilities and further defines water dependent facilities as those that can not exist outside the Buffer and are dependent on the water by reason of the intrinsic nature of their operation. A second change involves clarifying that existing agricultural facilities within the RCA shall be allowed to continue. Due to a clerical error, this Ordinance also included a provision that additional land may not be zoned for agricultural development in the RCA, and the County has requested that this ordinance be approved with that provision deleted.

The third significant ordinance, Ordinance C, pertains to the designation of new IDAs through the use of growth allocation. The change adds language to allow new IDAs to be less than 20 acres in size if growth allocation is awarded to accommodate an existing use. This change is consistent with the Commission's growth allocation policy.

Ordinance D involves clarification of the type of connections between accessory structures and principal structures that make the accessory structure part of the principal structure and therefore subject to the setback requirements of the principal structure. The ordinance specifies that attachments such as decks, roofs, and porches constitute a connection, whereas fences, trellises, sidewalks, and patios do not.

Ordinance E involves the combination of two or more contiguous lots under single ownership that are used in combination. The new language requires a property owner who uses the lots in combination or constructs a structure that crosses existing property lines to acknowledge and record his intent to combine the lots into one and his abandonment of any right to separate the lots in the future.

The next category of five ordinances indirectly affect development activities and land use within the Critical Area, but do not significantly change the County's Critical Area Program. These five ordinances, F through J, include changes to the definition of "two-family dwelling" and changes regarding the encroachment of porches into a setback. One of the ordinances is a change to the County's subdivision regulations requiring that, in certain zoning districts that are characterized by agricultural land uses, a note be placed on the plat precluding lot owners from taking action against any "normal farming operation" even if it causes some interference with the enjoyment of their property. The other ordinances involve the correction of a date pertaining to the permitted density for residue parcels (The date change does not affect RCA density.), and requirements regarding the Board of Appeals' consideration of special exceptions for communication towers.

The third category involves four ordinances, K through N, that do not directly affect development activities within the Critical Area and do not change the County's Critical Area Program. These ordinances include a change to the County's subdivision regulations regarding information required on subdivision plats and changes to the County's zoning ordinance regarding provisions for bus shelters, standards for accessory structures located in the County's Floodplain District, and height limits of agricultural fencing.

Chairman North has determined that these changes, identified as Ordinances A through N can be approved as refinements to the County's Critical Area Program and is seeking the Commission's concurrence. The County has requested that Ordinance B be approved with the condition that the change restricting new agricultural uses in the RCA be deleted.

Update: April 7th Patuxent River Oil Spill

Carolyn V. Watson
Assistant Secretary
Maryland Department of Natural
Resources

07/05/2000

1

Where did the oil go?

- Initially contained in Swansons Creek
- 2nd night a severe storm passed through the area
 - ◆ 50 mph winds
 - ◆ Oil breached the booms

07/05/2000

4

What I'll be covering:

- What happened?
- Where did the oil go?
- Cleanup Activities
- Natural Resources Damage Assessment
- Enforcement
- What's next?

07/05/2000

2

Where did the oil go? (cont.)

- Ultimately, oil impacted:
 - ◆ 15 miles of river
 - ◆ 40+ miles of shoreline
 - ◆ Four counties: Prince Georges, Calvert, Charles and St. Mary's
 - ◆ Over 500 dead animals
 - ◆ Nearly 250 animals oiled and distressed

07/05/2000

5

What Happened?

- 111,000 gallons of oil leaked from a PEPCO pipeline
- Mixture of #2 and #6 oil
- Currently under investigation by National Transportation and Safety Board
- Responsible parties are:
 - ◆ PEPCO
 - ◆ ST Services

07/05/2000

3

Cleanup Activities

- EPA had the lead
- Cleanup divided into two phases:
 - ◆ Phase I: removal mobile oil to prevent new damage
 - ◆ Phase II: removal of all oil that can be recovered w/o causing more damage to the environment.
 - ◆ As of June 1, Phase I completed except in Swansons Creek

07/05/2000

6

Cleanup (cont.)

- Phase II continuing
 - ◆ expected to continue into the fall.
- At peak of operations over 700 people were involved in the cleanup
- To date:
 - ◆ 46,000 gallons of oil recovered
 - ◆ 3.6 million pounds of oil soaked material has been recovered

07/05/2000

7

NRDA (cont.)

- Initial sampling to determine extent of exposure
- Longer term studies to determine impacts
- Four major areas potentially impacted by the spill:
 - ◆ Wetlands
 - ◆ Wildlife
 - ◆ Fish
 - ◆ Public Use

07/05/2000

10

Natural Resources Damage Assessment (NRDA)

- Required under the federal Oil Pollution Act of 1990
- Trustees:
 - ◆ NOAA (Carol Ann Manan)
 - ◆ USFWS (Beth McGee)
 - ◆ MDE (Bob Summers)
 - ◆ MDNR (Carolyn Watson)

07/05/2000

8

NRDA (cont.)

- Wetlands
 - ◆ Swanson Creek Marsh
 - ◆ Interior marshes
 - ◆ Fringe Marshes

07/05/2000

11

NRDA (cont.)

- Trustees responsible for:
 - ◆ Determining extent of damage to PUBLIC resources
 - ◆ Overseeing the restoration of those resources
 - ◆ Overseeing the compensation for the loss of those resources.

07/05/2000

9

NRDA (cont.)

- Wildlife
 - ◆ Furbearers
 - ◆ Great Blue Herons
 - ◆ Osprey
 - ◆ Eagles
 - ◆ Terrapins

07/05/2000

12

NRDA (cont.)

- Fish
 - ◆ Adults
 - ◆ Spawning
- Public Use
 - ◆ Recreational Fishing
 - ◆ Recreational Boating
 - ◆ Public beaches

07/05/2000

13

What's next

- Governor will be appointing two committees:
 - ◆ Provide input on NRDA
 - ◆ Assess potential of this happening again in MD

07/05/2000

16

Enforcement

- MDE is the lead agency for enforcement activities
 - ◆ Can assess a civil penalty of \$100 for each gallon discharged. Penalty could be as high as \$11.1 million
 - ◆ Can also assess civil penalty of \$10,000 per day that violation occurs up to maximum of \$50,000.

07/05/2000

14

What's next (cont.)

- Studies continue for damage assessment
 - ◆ Restoration
 - ◆ Mitigation
 - ◆ Compensation (NOT \$\$\$, but actual environmental enhancements)

07/05/2000

17

Enforcement (cont.)

- EPA and USFWS can also impose penalties
- State enforcement will probably not occur until NTSB report is complete
- Pipeline has been shut down

07/05/2000

15

What's next? (cont.)

- Restoration activities monitored
- Penalties imposed

07/05/2000

18

Chesapeake Bay Critical Area Commission

STAFF REPORT

June 7, 2000

Approved

APPLICANT: Maryland National Capital Park and Planning Commission

PROPOSAL: Cedarhaven Park - Parking Lot and Turnaround

JURISDICTION: Prince George's County

COMMISSION ACTION: Vote

STAFF RECOMMENDATION: Pending

STAFF: Lisa Hoerger

**APPLICABLE LAW/
REGULATIONS:** Code of Maryland Regulations 27.02.05- State Agency
Actions Resulting in development on State-Owned Lands

DISCUSSION:

The Maryland National Capital Park and Planning Commission (MNCPPC) proposes to reconfigure an existing turnaround and to construct a 20-car parking lot at Cedarhaven Park in Prince George's County. Cedarhaven Park is approximately 60 acres and is situated in southern Prince George's County along the western shore of the Patuxent River. The parks supports passive recreation uses.

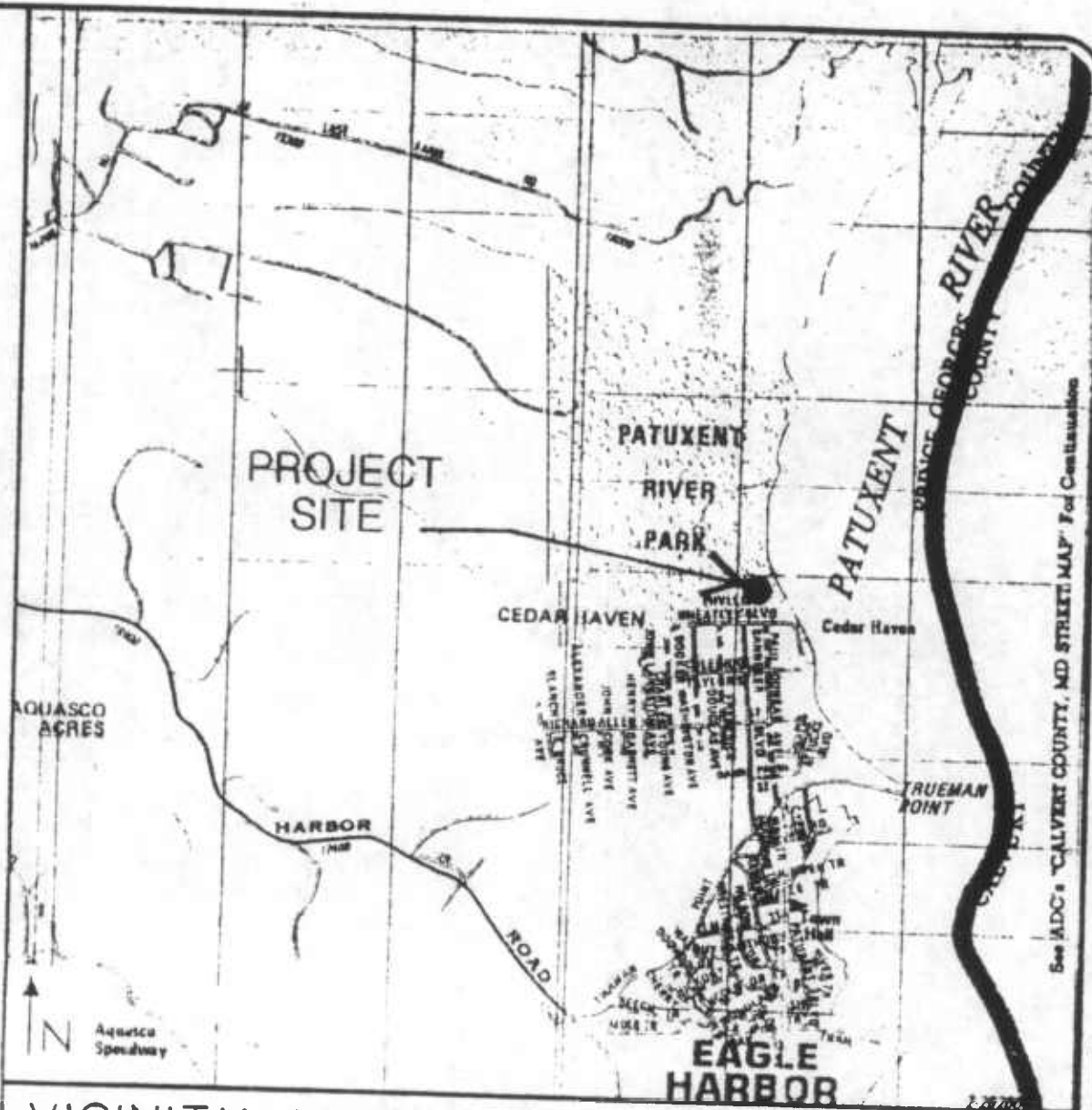
The proposed 20-car parking lot will have one exit and one entrance. The surface will be gravel. A five-foot wide bluestone dust pathway will be constructed linking the new parking lot to the vehicle turn-around. The site currently supports a turnaround and informal parking area in the Buffer. This area consists of compacted gravel. The turnaround will be shortened to only allow for turning and dropping off of boats or equipment. The remaining area in the Buffer will be restored with topsoil and vegetative cover.

The applicant expects to receive approval for the stormwater management concept plan and sediment and erosion control plan prior to the June 7 meeting. The proposal includes a bioretention area to treat the stormwater from the proposed parking lot. A 20-foot wide grass filter strip is proposed along the entire length of the downstream edge of the parking lot. The soil composition is CmA which is Collington fine sandy loam and is appropriate for bioretention.

The Maryland Department of Natural Resources, Heritage and Biodiversity Division have determined no rare, threatened or endangered species use this site for habitat. However, the site may support Forest Interior Dwelling Bird (FID) habitat. Based on the site plan, the applicant proposes to limit clearing to 5.6 acres. The area proposed to be cleared is within the existing forest "edge" (within 300 feet of the existing edge of the forest). Since total clearing is less than 20% of the forested area of the parcel, mitigation is required at a 1:1 ratio. The applicant proposes to mitigate 5.6 acres of forest on the northern edge of parcel, adjacent to existing mature forest. Coordination with the Wildlife and Heritage Division is on-going to assure FID habitat is conserved and protected.

The Maryland Historical Trust sent a letter indicating the area proposed for disturbance will not impact any significant historical areas.

An updated staff report with a staff recommendation will be provided at the meeting. Please contact Lisa Hoerger at (410) 260-3478 if you have any concerns or questions prior to the meeting.



VICINITY MAP

SCALE: 1" = 2000'



DESIGNED BY: LT

DRAWN BY: SJC

SCALE: 1"=30'-0" OR AS SHOWN

DATE: MAY, 2000

MARYLAND-NATIONAL CAPITAL PARK

AND PLANNING COMMISSION

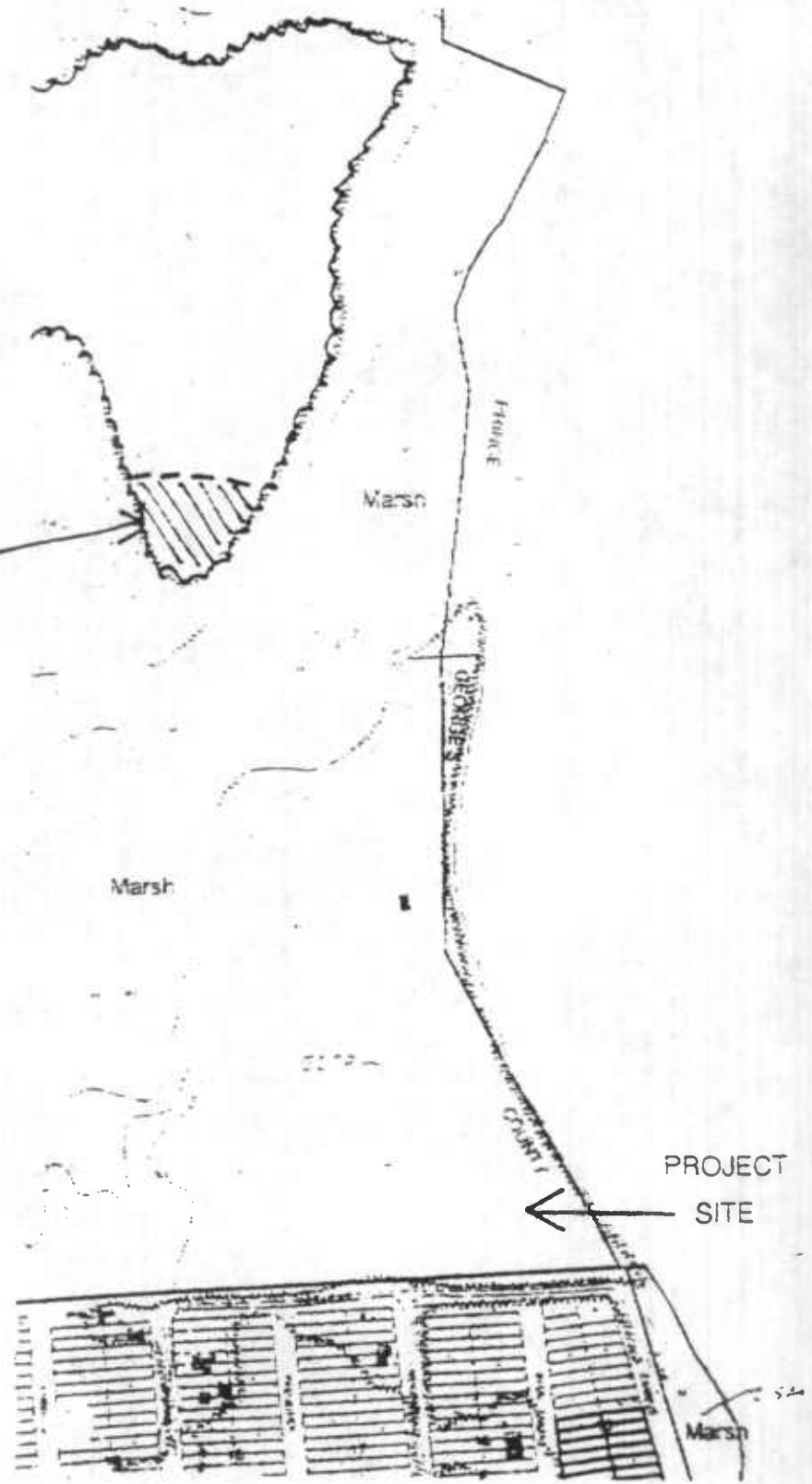
OF PARKS & RECREATION

PRINCE GEORGES COUNTY

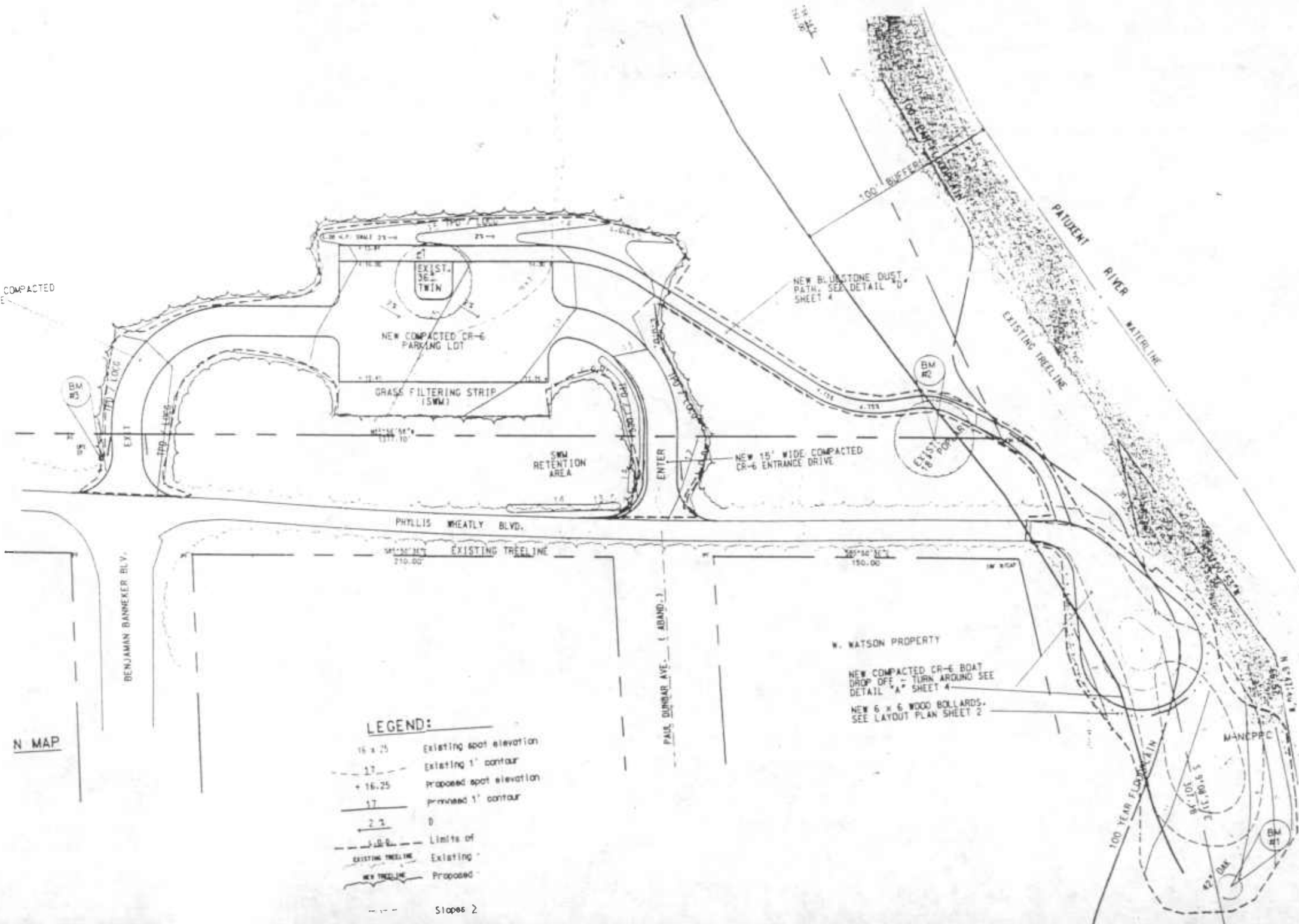
1111 WILMOUTH AVE. RIVERDALE, MARYLAND.

FOREST CLEARING MITIGATION LOCATION MAP

FOREST CLEARING
MITIGATION AREA
(24,140 SQ. FT.)



16' COMPACTED
TVE



N MAP

LEGEND:

- 16.25 Existing spot elevation
- 17 Existing 1' contour
- + 16.25 Proposed spot elevation
- 17 Proposed 1' contour
- 2.2 0
- 100' Limits of
- EXISTING TREE LINE Existing
- NEW TREE LINE Proposed
- 100' Slopes 2

Note:
Elevations shown are for
mean high tide on chart

10' BOLLARDS



CHESAPEAKE BAY CRITICAL AREA COMMISSION
45 Calvert Street, 2nd Floor
Annapolis, Maryland 21401

DATE: June 20, 2000

TO: Panel Members for the Anne Arundel County Comprehensive Review (Larry Duket, Chair, James Foor, Bob Goodman, Dave Bourdon, Barbara Samorajczyk)

FROM: Lisa Hoerger

SUBJ: Anne Arundel County Comprehensive Review

We have advertised the public hearing for the Anne Arundel County Comprehensive Review. It is scheduled for Thursday, June 29, 2000 at 6:00 p.m. on the first floor of the Heritage Center Office Complex located at 2662 Riva Road, Annapolis, Maryland 21401. If you need directions, give me a call at (410) 260-3478.

Attached is County Council Bill # 104-97 and # 12-00 which includes all the proposed changes to the County's ordinances and program document at this time. In 1997, the County Council passed Bill # 104-97 which was an earlier version of their comprehensive review. While the Commission did not act on this bill, it was still incorporated into the County's ordinances; however, Bill # 12-00 was written as amendment to # 104-97. The County has informed us that they have not been implementing the changes resulting from Bill # 104-97. Bill # 12-00 also includes other issues in response to the meetings that staff and yourselves have conducted with the County staff since the first bill (#104-97). Therefore, both bills are attached for your review.

Bill # 12-00 addresses issues which we have discussed with you in previous meetings. Most notable is the proposed RCA uses list. Other changes include changes to the variance language, changes to the civil fines and procedures, providing for impervious surface fees, adjusting clearing fees for residential lots less than one half acre, increasing the violation fees, and amending one section of the Program document.

This comprehensive review was due in 1996. Consequently, the next comprehensive review is due this year. County staff have indicated to me they will begin that process immediately. We have a few issues we intend to clear up with the County during the 2000 comprehensive review.

Again, if you have any questions, please call me at (410) 260-3478.

Attachments

FINAL

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 1997, Legislative Day No. 38

Bill No. 104-97

Introduced by Mrs. Evans, Chairman
(by request of the County Executive)

By the County Council, December 1, 1997

Introduced and first read on December 1, 1997
Public Hearing set for and held on January 5, 1998

By Order: Judy C. Holmes, Administrative Officer

Date	7/6/97	From	Eli	Co.	Phone #	Fax #
Post-It* Fax Note	To Lisa	Co/Dept.	Phone #	Fax #		

A BILL ENTITLED

1 AN ORDINANCE concerning: The Chesapeake Bay Critical Area and Wetlands

2
3 FOR the purpose of amending the County's Chesapeake Bay Critical Area Program:
4 amending and adding definitions; amending the pollutant loading requirements in the
5 Critical Area; permitting waivers of stormwater management quantity measures in
6 certain circumstances in the Critical Area; amending the impervious surface limitations
7 in the Critical Area; limiting the amount of clearing on certain grandfathered lots in the
8 Critical Area; exempting certain subdivided parcels from the critical area regulations;
9 providing for the stay of a grading permit issued in the Critical Area in certain
10 circumstances; permitting modifications of certain dwellings in the Critical Area to
11 accommodate the physically challenged; and generally relating to the Chesapeake Bay
12 Critical Area and Wetlands.

13
14 BY renumbering: Article 21, §§2-101(22E)(iii) through (v) and (37A) through (37D);
15 3-202(d)(7) and (8); and 3-303(f) to be Article 21, §§2-101(22E)(ii) through (iv).
16 (37B) through (37E), 3-202(d)(2) and (3), and 3-303(g), respectively; Article 26,
17 §1-101(27C)(iii) through (v) to be Article 26, §1-101(27C)(ii) through (iv); and Article
18 28, §§1-101(28B)(iii) through (v) and (66A) to be Article 28, §1-101(28B)(ii) through
19 (iv) and (66B), respectively
20 Anne Arundel County Code (1985, as amended.)

21
22 BY repealing: Article 21, §§2-101(22E)(ii) and 3-202(d)(2), (3), (4), (5), and (6); and
23 Article 26, §1-101(27C)(ii)
24 Anne Arundel County Code (1985, as amended)

25
26 BY adding: Article 21, §§2-101(22E)(v)8 and (37A); and 3-303(f); Article 26,
27 §1-101(27C)(v)8; and Article 28, §§1-101(28B)(v)8 and (66A); and 1A-105(b)(5) and
28 (6)
29 Anne Arundel County Code (1985, as amended)

EXPLANATION: CAPITALS indicate new matter added to existing law.
[Brackets] indicate matter stricken from existing law.

Bill No. 104-97
Page No. 2

BY repealing and reenacting, with amendments: Article 21, §§2-101(9B), (22E)(v)6 and 7, and (37E); 2-106(a); 2-301(j); 3-202(a); and 3-303(a); Article 26, §§1-101(9F), (27C)(v)6 and 7, and (57); and 3-110(b)(3)(i) and (k)(1); and Article 28, §§1-101(15D), (28B)(v)6 and 7, and (68E); 1A-105(b)(1) and (2) and (h); 1A-109(b)(2); and 10-126(a)
Anne Arundel County Code (1985, as amended)

SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland.* That Article 21, §§2-101(22E)(iii) through (v) and (37A) through (37D); 3-202(d)(7) and (8); and 3-303(f) of the Anne Arundel County (1985, as amended) are hereby renumbered to be Article 21, §§2-101(22E)(ii) through (iv) and (37B) through (37E); 3-202(d)(2) and (3); and 3-303(g), respectively: Article 26, §1-101(27C)(iii) through (v) is hereby renumbered to be Article 26, §1-101(27C)(ii) through (iv); and Article 28, §1-101(28B)(iii) through (v) and (66A) is hereby renumbered to be Article 28, §1-101(28B)(ii) through (iv) and (66B), respectively.

SECTION 2. *And be it further enacted,* That Article 21, §§2-101(22E)(ii) and 3-202(d)(2), (3), (4), (5) and (6); Article 26, §1-101(27C)(ii); and Article 28, §10-126(a), Anne Arundel County Code (1985, as amended) are hereby repealed.

SECTION 3. *And be it further enacted,* That Section(s) of the Anne Arundel County Code (1985, as amended) read as follows:

ARTICLE 21 FLOODPLAIN MANAGEMENT,
SEDIMENT CONTROL, AND STORMWATER MANAGEMENT
Title 2. Grading and Sediment Control

2-101. Definitions.

(9B) "Contiguous sensitive areas" means steep slopes, hydric soils, or highly erodible soils INCLUDING ANY APPLICABLE BUFFERS.

(22E) "Habitat protection area" means those areas of State and local significance that are identified by using the habitat assessment methodology found in the habitat assessment manual and that include:

(v) plant and wildlife habitats, including:

6. plant and wildlife habitats of local significance; [and]

7. wildlife corridors; AND

8. NONTIDAL WETLANDS.

(37A) "SUBDIVIDED PARCEL" MEANS ANY PARCEL THAT HAS BEEN SUBDIVIDED AS DEFINED IN ARTICLE 26, §1-101(54) OF THIS CODE AND THAT MEETS ALL REQUIREMENTS OF THE ANNE ARUNDEL COUNTY SUBDIVISION REGULATIONS IN EFFECT ON THE DATE THE PARCEL WAS SUBDIVIDED.

[(37E)] (37F) "Tributary streams" means perennial and intermittent streams in the critical area in the County that are shown on the most recent U.S. Geological Survey 7.5-minute topographic quadrangle maps, soil survey of Anne Arundel County or on County maps OR AS IDENTIFIED OR CONFIRMED BY FIELD INVESTIGATION BY THE DEPARTMENT OF PLANNING AND CODE ENFORCEMENT.

Bill No. 104-97
Page No. 3

2-106. Administrative appeals.

(a) (1) EXCEPT AS SET FORTH IN PARAGRAPH (3) OF THIS SUBSECTION, [This] THIS section applies only to grading permits that are issued for sites that are two or more acres in size and on which clearing or grading will result in the loss or diminution of substantial and significant natural features or irreparable environmental harm.

(2) EXCEPT AS SET FORTH IN PARAGRAPH (3) OF THIS SUBSECTION, [This] THIS section does not apply to a grading permit for a single lot that is part of a larger site with an active or completed grading permit that provides for site improvements and future development of single lots.

(3) THIS SECTION APPLIES TO ALL GRADING PERMITS ISSUED WITHIN THE BUFFER OR EXPANDED BUFFER.

2-301. Erosion and sediment control.

(j) Development and grading activities in the critical area on legally existing lots, SUBDIVIDED PARCELS, and legally planned parcels of land of record on or before December 1, 1985 that have not otherwise been subject to critical area regulation are permitted in accordance with the following limitations:

(1) all development in any habitat protection area shall be pursuant to a variance in accordance with Article 8, §2-107 or Article 28, §11-102.1 of this Code with the following exceptions:

(i) for property within a buffer exemption area, a variance is not required for development within the 100-foot buffer or expanded buffer, but is required for newly developed impervious surface located in any other habitat protection area as defined in §2-101 of this article; and

(ii) water-dependent facilities;

(2) except for renovations or new accessory structures described in subsection (k) of this section, in resource conservation areas and limited development areas, new principal structures, additions or renovations to existing principal structures, or accessory structures are permitted with the approval of the [Office of Planning and Zoning] DEPARTMENT OF PLANNING AND CODE ENFORCEMENT in accordance with the following additional locational criteria:

(i) all buffers for the preservation or enhancement of the environment are maximized;

(ii) siting in areas of existing native or wooded vegetation is to be avoided whenever possible;

(3) forest clearing and afforestation shall be as follows:

(i) for a site that has 20% or less of its area cleared, mitigation shall be undertaken in the following order of preference:

1. on-site reforestation of an area equal to the area cleared;

2. off-site reforestation of an area equal to the area cleared;

3. payment to the County of \$.60 for each square foot of forest area cleared;

Bill No. 104-97
Page No. 4

(ii) for a site that has more than 20% to and including 30% of its forest area cleared, mitigation shall be undertaken in the following order of preference:

1. on-site reforestation at 1.5 times the area cleared;
2. off-site reforestation at 1.5 times the area cleared; or
3. payment to the County of \$.90 for each square foot of area cleared;

(iii) for a site that has more than 30% of its forest area cleared, mitigation shall be undertaken in the following order of preference:

1. on-site reforestation at three times the area cleared;
2. off-site reforestation at three times the area cleared; or
3. payment to the County of \$1.80 for each square foot of area cleared;

(iv) for a site that has less than 15% of its area forested, afforestation shall be required to cover a minimum of 15% of the site with the posting of security for planting at a rate of \$.40 per square foot;

(v) reforestation and afforestation planting shall be:

1. established first within the 100-foot buffer if feasible; and
2. with a combination of trees, shrubs, and ground cover that is first approved by the [Office of Planning and Zoning] DEPARTMENT OF PLANNING AND CODE ENFORCEMENT.

(4) in a resource conservation area or limited development area, the location of impervious surface may be reconfigured but may not be increased in excess of the limits set forth in Article 28, §1A-105(a) of this Code;

(5) development on a parcel that does not have an existing natural buffer within 100 feet of the shoreline and does not necessitate the clearing of natural vegetation shall have a buffer reestablished in accordance with the following:

(i) the area to be planted shall be equal to the impervious area that will be developed outside the 100-foot buffer and three times the impervious area that will be developed within the 100-foot buffer;

(ii) a buffer management plan shall be approved by the [Office of Planning and Zoning] DEPARTMENT OF PLANNING AND CODE ENFORCEMENT and an agreement shall be entered into with the County that includes security posted for the replanting at a rate of \$.40 per square foot; and

(iii) the planting shall consist of a combination of trees, shrubs, and ground cover that is first approved by the [Office of Planning and Zoning] DEPARTMENT OF PLANNING AND CODE ENFORCEMENT;

(6) all development shall be undertaken strictly in accordance with Article 21, Title 3 of this Code;

(7) except as provided in subsection (k) of this section, in intensely developed areas, new principal structures, additions or renovations to existing principal structures, or

Bill No. 104-97

Page No. 5

1 accessory structures are permitted with the approval of the Department of Planning and
2 Code Enforcement in accordance with the following:

3
4 (i) all development in the 100-foot buffer or the expanded buffer shall be
5 pursuant to a variance in accordance with Article 3, §2-107 or Article 28, §11-102.1 of this
6 Code with the following exceptions:

7
8 1. for property within a buffer exemption area, a variance is not required for
9 development within the 100-foot buffer or expanded buffer, but is required for newly
10 developed impervious surface located in any other habitat protection area as defined in
11 §2-101 of this article; and

12
13 2. water-dependent facilities;

14
15 (ii) buffers for the preservation or enhancement of the environment shall be
16 maximized; and

17
18 (iii) siting in areas of existing native or wooded vegetation is to be avoided
19 whenever possible; and

20
21 (8) where required by this title, a grading permit is obtained before construction
22 commences.

23 Title 3. Stormwater Management

24 3-202. Criteria.

25
26 (a) An applicant shall install or construct stormwater management facilities for a
27 proposed development to meet the minimum performance requirement for managing
28 increased runoff so that:

29
30 (1) the two-year and 10-year predevelopment peak discharge rates are not exceeded
31 and predevelopment volume is not exceeded in 36 hours for sites in the critical area;

32
33 (2) accelerated channel erosion will not occur as a result of the proposed
34 development; [and]

35
36 (3) water quality will be improved for sites WITHIN INTENSELY DEVELOPED AREAS
37 in the critical area as follows:

38
39 (i) [in intensely developed areas,] pollutant loadings from impervious surfaces
40 shall be reduced by at least 10%; [and]

41
42 (ii) [in limited development areas and resource conservation areas, stormwater
43 runoff from impervious surfaces may not cause downstream property, watercourses,
44 channels, or conduits to receive stormwater runoff at a higher volume or rate than would
45 have resulted from a 10-year storm were the land in a predevelopment state.]
46 REDEVELOPMENT SHALL HAVE POLLUTANT LOADING REDUCED BY AT LEAST 10%
47 BELOW THE LEVEL OF POLLUTION FROM THE SITE PRIOR TO REDEVELOPMENT;

48
49 (iii) NEW DEVELOPMENT SHALL HAVE POLLUTANT LOADING REDUCED BY AT
50 LEAST 10% BELOW THE LEVEL OF POLLUTION FROM THE SITE PRIOR TO DEVELOPMENT.

51
52 (iv) NEW DEVELOPMENT ACTIVITY AND REDEVELOPMENT WITHIN INTENSELY
53 DEVELOPED AREAS SHALL BE UNDERTAKEN IN ACCORDANCE WITH THE DESIGN
54 MANUAL AND TECHNICAL REPORT TITLED "A FRAMEWORK FOR EVALUATING
55 COMPLIANCE WITH THE 10% RULE IN THE CRITICAL AREA", ADMINISTERED BY THE
56
57

Bill No. 104-97

Page No. 6

1 CHESAPEAKE BAY CRITICAL AREA COMMISSION, BUT WHERE IT IS IMPRACTICAL TO USE
2 THE RECOMMENDATIONS IN THE TECHNICAL REPORT, ALTERNATIVE METHODS TO
3 ACHIEVE A 10% REDUCTION MAY BE USED;

4
5 (V) ALL COMPUTATIONS AND DATA NECESSARY TO ENSURE THAT ANY
6 DEVELOPMENT OR REDEVELOPMENT MEETS THE 10% POLLUTANT REDUCTION
7 REQUIREMENT SHALL BE PROVIDED BY THE DEVELOPER TO THE DEPARTMENT FOR
8 APPROVAL; AND

9
10 (VI) OFFSETS PERMITTED BY THE DESIGN MANUAL AND TECHNICAL REPORT
11 IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH MAY BE USED EITHER ON-SITE OR OFF-SITE
12 IN THE SAME CRITICAL AREA-WATERSHED TO REACH THE 10% POLLUTANT REDUCTION
13 REQUIREMENT OF THIS SUBSECTION; AND

14
15 (4) IN LIMITED DEVELOPMENT AREAS AND RESOURCE CONSERVATION AREAS
16 WITHIN THE CRITICAL AREA, STORMWATER RUNOFF FROM IMPERVIOUS SURFACES MAY
17 NOT CAUSE DOWNSTREAM PROPERTY, WATERCOURSES, CHANNELS, OR CONDUITS TO
18 RECEIVE STORMWATER RUNOFF AT A HIGHER VOLUME OR RATE THAN WOULD HAVE
19 RESULTED FROM A 10-YEAR STORM WERE THE LAND IN A PREDEVELOPMENT STATE.

20
21 3-303. Waivers.

22
23 (a) [Except in the critical area, the] THE Department may grant a waiver to the
24 requirements of this title provided that a written request is submitted by the applicant that
25 contains site location project plans and description, specific justifications, runoff
26 computations and design details, and any other information the Department determines
27 necessary to evaluate the proposed request.

28
29 (F) THE FOLLOWING ADDITIONAL CRITERIA SHALL APPLY TO WAIVERS GRANTED IN
30 THE CRITICAL AREA:

31
32 (1) THE PROPERTY MUST BE LOCATED IN A LIMITED DEVELOPMENT AREA OR A
33 RESOURCE CONSERVATION AREA;

34
35 (2) WAIVERS MAY BE GRANTED FOR QUANTITY MEASURES ONLY;

36
37 (3) QUANTITY STORMWATER MANAGEMENT AND INFILTRATION REQUIREMENTS
38 OF THE CODE ARE NOT FEASIBLE DUE TO THE SLOW INFILTRATION RATE OF THE SOILS
39 OR SIMILAR PHYSICALLY LIMITING CONDITIONS; AND

40
41 (4) THERE IS AN ADEQUATE OUTFALL.

42
43 ARTICLE 26 SUBDIVISIONS

44 Title 1. Definitions; General Provisions

45
46 1-101. Definitions.

47
48 (9F) "Contiguous sensitive areas" means steep slopes, hydric soils, or highly
49 erodible soils INCLUDING ANY APPLICABLE BUFFERS.

50
51 (27C) "Habitat protection area" means those areas of State and local significance
52 that are identified by using the habitat assessment methodology found in the habitat
53 assessment manual and that include:

54
55 (v) plant and wildlife habitats, including:

56
57 6. plant and wildlife habitats of local significance; [and]

Bill No. 104-97
Page No. 7

7. wildlife corridors; AND

8. NONTIDAL WETLANDS.

(57) "Tributary streams" means perennial and intermittent streams in the critical area in the County that are shown on the most recent U.S. Geological Survey seven-and-one-half-minute topographic quadrangle maps, soil survey of Anne Arundel County, or on County maps OR AS IDENTIFIED OR CONFIRMED BY FIELD INVESTIGATION BY THE DEPARTMENT OF PLANNING AND CODE ENFORCEMENT.

Title 3. Design Standards and Requirements

3-110. Critical area environmental controls.

(b) Within [the] intensely developed resource conservation areas and limited development areas the following criteria shall be met:

(3) Pollutant loading shall be reduced in redevelopment areas by at least 10% below the level of pollution from the site prior to redevelopment; and in new development areas by at least 10% of the predevelopment levels, in accordance with the following:

(i) This subsection shall apply to new construction and to redevelopment activity ONLY within intensely developed areas;

(k) The following applies to the use of impervious surfaces and steep slopes:

(1) Impervious areas shall be limited [to 15% of a development site when a proposed development activity in the critical area is to be located in limited or resource conservation areas] AS SET FORTH IN ARTICLE 28, §1A-105 OF THIS CODE; and

ARTICLE 28 ZONING

Title 1. General Provisions

1-101. Definitions--Generally.

(15D) "Contiguous sensitive areas" means steep slopes, hydric soils, or highly erodible soils INCLUDING ANY APPLICABLE BUFFERS.

(28B) "Habitat protection area" means those areas of State and local significance that are identified by using the habitat assessment methodology found in the habitat assessment manual and that include:

(v) plant and wildlife habitats, including:

6. plant and wildlife habitats of local significance; [and]

7. wildlife corridors; AND

8. NONTIDAL WETLANDS.

(66A) "SUBDIVIDED PARCEL" MEANS ANY PARCEL THAT HAS BEEN SUBDIVIDED AS DEFINED IN ARTICLE 26, §1-101(54) OF THIS CODE AND THAT MEETS ALL REQUIREMENTS OF THE ANNE ARUNDEL COUNTY SUBDIVISION REGULATIONS IN EFFECT ON THE DATE THE PARCEL WAS SUBDIVIDED.

(68E) "Tributary streams" means perennial and intermittent streams in the critical area in the County that are shown on the most recent U.S. Geological Survey seven-and-

Bill No. 104-97

Page No. 8

one-half-minute topographic quadrangle maps, soil survey of Anne Arundel County, or on County maps OR AS IDENTIFIED OR CONFIRMED BY FIELD INVESTIGATION BY THE DEPARTMENT.

Title 1A. Critical Area

1A-105. Impervious surfaces; steep slopes; certain restricted uses.

(b) (1) man-made impervious surfaces associated with a parcel of land that is one-half acre or less [and was used or was zoned for residential purposes] on or before December 1, 1985, may be increased to 25% of the parcel [for that use];

(2) [man-made impervious surfaces associated with a parcel of land that is one-quarter acre or less and was used for non-residential purposes on or before December 1, 1985, may be increased to 25% of the parcel for that use] IF A PARCEL OR LOT GREATER THAN ONE-HALF ACRE AND LESS THAN ONE ACRE IN SIZE EXISTED ON OR BEFORE DECEMBER 1, 1985, THEN MAN-MADE IMPERVIOUS SURFACES ARE LIMITED TO 15% OF THE PARCEL OR LOT.

(5) A PROPERTY OWNER MAY EXCEED THE IMPERVIOUS SURFACE LIMITS PROVIDED IN PARAGRAPHS (1) AND (2) OF THIS SUBSECTION IF THE FOLLOWING CONDITIONS EXIST:

(I) NEW IMPERVIOUS SURFACES ON THE PROPERTY HAVE BEEN MINIMIZED;

(II) FOR A LOT OR PARCEL ONE-HALF ACRE OR LESS IN SIZE, TOTAL IMPERVIOUS SURFACES DO NOT EXCEED IMPERVIOUS SURFACE LIMITS IN PARAGRAPH (1) OF THIS SUBSECTION BY MORE THAN 25% OR 500 SQUARE FEET, WHICHEVER IS GREATER;

(III) FOR A LOT OR PARCEL GREATER THAN ONE-HALF ACRE AND LESS THAN ONE ACRE IN SIZE, TOTAL IMPERVIOUS SURFACES DO NOT EXCEED IMPERVIOUS SURFACE LIMITS IN PARAGRAPH (2) OF THIS SUBSECTION OR 5,445 SQUARE FEET, WHICHEVER IS GREATER;

(IV) WATER QUALITY IMPACTS ASSOCIATED WITH RUNOFF FROM THE NEW IMPERVIOUS SURFACES HAVE BEEN MINIMIZED THROUGH SITE DESIGN CONSIDERATIONS OR USE OF BEST MANAGEMENT PRACTICES APPROVED BY THE COUNTY TO IMPROVE WATER QUALITY; AND

(V) THE PROPERTY OWNER PERFORMS ON-SITE MITIGATION AS REQUIRED BY THE COUNTY TO OFFSET POTENTIAL ADVERSE WATER QUALITY IMPACTS FROM THE NEW IMPERVIOUS SURFACES, OR THE PROPERTY OWNER PAYS A FEE TO THE COUNTY INSTEAD OF PERFORMING THE ON-SITE MITIGATION.

(6) ALL FEES COLLECTED UNDER PARAGRAPH (S)(V) OF THIS SUBSECTION SHALL BE USED TO FUND PROJECTS THAT IMPROVE WATER QUALITY WITHIN THE CRITICAL AREA.

(h) Development activities in the critical area on legally existing lots, SUBDIVIDED PARCELS, and legally platted parcels of land of record on or before December 1, 1985, that have not otherwise been subject to critical area regulation are permitted if the following criteria are met:

(1) all development in any habitat protection area shall be permitted pursuant to a variance in accordance with Article 3, §2-107 of this Code or §11-102.1 of this article with the following exceptions:

Bill No. 104-97
Page No. 9

(i) for property within a buffer exemption area, a variance is not required for development within the 100-foot buffer or expanded buffer, but is required for newly developed impervious surface located in any other habitat protection area as defined in §1-101 of this article; and

(ii) water-dependent facilities;

(2) except for renovations or new accessory structures described in subsection (j) of this section, in the resource conservation areas and limited development areas, new principal structures, additions or renovations to existing principal structures, or accessory structures are permitted with the approval of the [Office of Planning and Zoning] DEPARTMENT in accordance with the following additional locational criteria:

(i) all buffers for the preservation or enhancement of the environment are maximized;

(ii) siting in areas of existing native or wooded vegetation is avoided whenever possible; and

(3) forest clearing and afforestation in the resource conservation area and limited development area shall be as follows:

(i) for a site that has 20% or less of its area cleared, mitigation shall be undertaken in the following order of preference:

1. on-site reforestation of an area equal to the area cleared;
2. off-site reforestation of an area equal to the area cleared; or
3. payment to the County of \$.60 for each square foot of forest area cleared;

(ii) for a site that has more than 20% to and including 30% of its forest area cleared, mitigation shall be undertaken in the following order of preference:

1. on-site reforestation at 1.5 times the area cleared;
2. off-site reforestation at 1.5 times the area cleared; and
3. payment to the County of \$.90 for each square foot of area cleared;

(iii) for a site that has more than 30% of its forest area cleared, mitigation shall be undertaken in the following order of preference:

1. on-site reforestation at three times the area cleared;
2. off-site reforestation at three times the area cleared; or
3. payment to the County of \$1.80 for each square foot of area cleared;

(iv) for a site that has less than 15% of its area forested, afforestation shall cover a minimum of 15% of the site in accordance with an agreement with the County that includes posting of security for the afforestation at a rate of \$.40 per square foot;

(v) reforestation and afforestation planting shall be:

1. established first within the 100-foot buffer if feasible; and

Bill No. 104-97
Page No. 10

1 2. with a combination of trees, shrubs, and ground cover that is first
2 approved by the [Office of Planning and Zoning] DEPARTMENT.
3

4 (VI) FOR LEGAL RESIDENTIAL LOTS ONE-HALF ACRE OR LESS IN SIZE THAT
5 WERE IN EXISTENCE ON OR BEFORE DECEMBER 1, 1985, CLEARING SHALL BE LIMITED TO
6 THE MINIMUM NECESSARY TO ACCOMMODATE A HOUSE, SEPTIC SYSTEM, DRIVEWAY,
7 AND REASONABLE AMOUNT OF YARD, AND MITIGATION SHALL BE UNDERTAKEN IN THE
8 FOLLOWING ORDER OF PREFERENCE:
9

10 1. ON-SITE REFORESTATION OF AN AREA EQUAL TO THE AREA TO BE
11 CLEARED;
12

13 2. OFF-SITE REFORESTATION OF AN AREA EQUAL TO THE AREA TO BE
14 CLEARED; AND
15

16 3. PAYMENT TO THE COUNTY OF \$.60 FOR EACH SQUARE FOOT OF FOREST
17 AREA CLEARED;
18

19 (4) in a resource conservation area or limited development area, the location of
20 impervious surface may be reconfigured but may not be increased in excess of the limits set
21 forth in subsection (a) of this section;
22

23 (5) development on a parcel that does not have an existing natural buffer within 100
24 feet of the shoreline and does not necessitate the clearing of natural vegetation shall have a
25 buffer reestablished in accordance with the following:
26

27 (i) the area to be planted shall be equal to the impervious area that will be
28 developed outside the 100-foot buffer and three times the impervious area that will be
29 developed within the 100-foot buffer;
30

31 (ii) a buffer management plan SHALL BE approved by the [Office of Planning
32 and Zoning] DEPARTMENT, including an agreement with the County securing the
33 replanting at a rate of \$.40 per square foot;
34

35 (iii) the planting shall consist of a combination of trees, shrubs, and ground
36 cover first approved by the [Office of Planning and Zoning] DEPARTMENT;
37

38 (6) all development shall be undertaken strictly in accordance with Article 21, Title
39 3 of this Code;
40

41 (7) all water-dependent facilities shall comply with §10-123 of this article;
42

43 (8) except as provided in Article 21, §2-301(j)(9) of this Code, new principal
44 structures, additions or renovation to existing principal structures, or accessory structures
45 in intensely developed areas are permitted with the approval of the [Office of Planning and
46 Zoning] DEPARTMENT if:
47

48 (i) except for water-dependent facilities or in a buffer exemption area as set forth
49 in §1A-109 of this title, all development in any habitat protection area, including the 100-
50 foot buffer or the expanded buffer, as described in §1A-104(a)(1) of this title shall be
51 pursuant to a variance in accordance with §2-107 of Article 3 of this Code or §11-102.1 of
52 this article;
53

54 (ii) all buffers for the preservation or enhancement of the environment shall be
55 maximized;

Bill No. 104-97
Page No. 11

(iii) siting in areas of existing native or wooded vegetation shall be avoided whenever possible; and

(iv) all water-dependent facilities shall comply with §10-123 of this article; and

(9) a grading permit must be obtained before construction commences, in accordance with Article 21, Title 2 of this Code.

1A-109. Buffer exemption and enhancement program.

(b) A buffer exemption may be applied on:

(2) legally recorded lots, SUBDIVIDED PARCELS or parcels within the mapped buffer exemption area that were created on or before December 1, 1985.

Title 10. Miscellaneous Regulations

10-126. Modification of existing dwellings to accommodate the physically challenged.

(a) [The provisions of this section do not apply to Title 1A of this article.] WITHIN THE CRITICAL AREA, THE DIRECTOR MAY AUTHORIZE A REDUCTION IN THE LOT COVERAGE, BUFFER, AND HABITAT PROTECTION AREA REQUIREMENTS OF THIS ARTICLE SO THAT IMPROVEMENTS OR MODIFICATIONS FOR ACCESSIBILITY TO EXISTING DWELLINGS MAY BE PROVIDED IN ORDER TO ACCOMMODATE A PHYSICALLY CHALLENGED RESIDENT PROVIDED THE FOLLOWING CRITERIA ARE MET:

(1) DUE TO THE FEATURES OF THE SITE OR OTHER CIRCUMSTANCES OTHER THAN FINANCIAL CONSIDERATIONS, STRICT IMPLEMENTATION OF THE COUNTY'S CRITICAL AREA PROGRAM WOULD RESULT IN AN UNWARRANTED HARDSHIP TO THE APPLICANT;

(2) A LITERAL INTERPRETATION OF THE CODE OF MARYLAND REGULATIONS, TITLE 27, SUBTITLE 01, CRITERIA FOR LOCAL AREA CRITICAL AREA PROGRAM DEVELOPMENT, OR THE COUNTY CRITICAL AREA PROGRAM AND RELATED ORDINANCES WILL DEPRIVE THE APPLICANT OF THE RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES IN SIMILAR AREAS WITHIN THE CRITICAL AREA OF THE COUNTY;

(3) THE APPLICANT WILL NOT RECEIVE ANY SPECIAL PRIVILEGE THAT WOULD BE DENIED BY COMAR, TITLE 27, SUBTITLE 01 OR THE COUNTY CRITICAL AREA PROGRAM TO OTHER LANDS OR STRUCTURES WITHIN THE COUNTY CRITICAL AREA;

(4) THE APPLICATION:

(I) IS NOT BASED ON CONDITIONS OR CIRCUMSTANCES THAT ARE THE RESULT OF ACTIONS BY THE APPLICANT; AND

(II) DOES NOT ARISE FROM ANY CONDITION RELATING TO LAND OR BUILDING USE, EITHER PERMITTED OR NON-CONFORMING, ON ANY NEIGHBORING PROPERTY;

(5) GRANTING OF THE APPLICATION:

(I) WILL NOT ADVERSELY AFFECT WATER QUALITY OR FISH, WILDLIFE, OR PLANT HABITAT WITHIN THE COUNTY'S CRITICAL AREA;

(II) WILL BE IN HARMONY WITH THE GENERAL SPIRIT AND INTENT OF THE COUNTY CRITICAL AREA PROGRAM;

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PAGE 13

Bill No. 104-97

Page No. 12

1 (III) WILL NOT SUBSTANTIALLY IMPAIR THE APPROPRIATE USE OR
2 DEVELOPMENT OF ADJACENT PROPERTY:

3
4 (IV) WILL NOT BE CONTRARY TO ACCEPTABLE CLEARING AND REPLANTING
5 PRACTICES REQUIRED FOR DEVELOPMENT IN THE CRITICAL AREA; AND

6
7 (V) WILL NOT BE DETRIMENTAL TO THE PUBLIC WELFARE; AND

8
9 (6) THE REDUCTION IS THE MINIMUM NECESSARY TO AFFORD RELIEF.

10
11 SECTION 4. *And be it further enacted*, That if any provision or application of this
12 Ordinance to any person or circumstance is declared by the Chesapeake Bay Critical Area
13 Commission to be in conflict with the State's Critical Area Law within the meaning of
14 §8-1809(1) of the Natural Resources Article of the State Code or is held invalid for any
15 reason in a court of competent jurisdiction, the conflict or invalidity does not affect other
16 provisions or any other application of this Ordinance that can be given effect without the
17 conflicting or invalid provision or application, and for this purpose the provisions of this
18 Ordinance are declared severable.

19
20 SECTION 5. *And be it further enacted*, That this Ordinance shall take effect 45 days
21 from the date it becomes law.

AMENDMENT ADOPTED January 20, 1998

AMENDMENT RECONSIDERED AND DEFEATED February 2, 1998

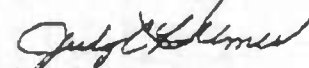
READ AND PASSED this 17th day of February, 1997

By Order:



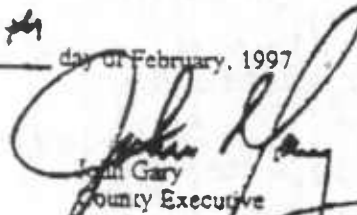
Judy C. Holmes
Administrative Officer

PRESENTED to the County Executive for his approval this 18th day of February, 1997



Judy C. Holmes
Administrative Officer

APPROVED AND ENACTED this 18th day of February, 1997



John Gary
County Executive

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.
104-97, THE ORIGINAL OF WHICH IS RETAINED IN THE FILES OF THE
COUNTY COUNCIL.



Judy C. Holmes
Administrative Officer

FINAL

AMENDED
May 1, 2000

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2000, Legislative Day No. 6

Bill No. 12-00

Introduced by Mr. Klosterman, Chairman
(by request of the County Executive)

By the County Council, March 20, 2000

RECEIVED

JUN 19 2000

Introduced and first read on March 20, 2000

Public Hearing set for and held on April 17, 2000

Public Hearing on AMENDED BILL set for and held on June 5, 2000

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

By Order: Judy C. Holmes, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: The Chesapeake Bay Critical Area and Wetlands

2
3 FOR the purpose of amending the County's Chesapeake Bay Critical Area Program;
4 permitting only certain specified uses in Resource Conservation Area; providing that
5 County projects in the critical area comply with certain regulations; amending
6 definitions; amending the criteria for grant of a variance to the Chesapeake Bay Critical
7 Area Program; providing for a fee for increasing impervious surfaces under certain
8 circumstances; limiting clearing on certain residential lots in certain circumstances;
9 eliminating a procedure for modification of existing dwellings to accommodate the
10 physically challenged; increasing fines for certain violations of the Critical Area
11 Program; amending certain procedures for prosecuting civil citations for violation of the
12 Critical Area Program; making certain persons liable for certain violations of the Critical
13 Area Program; adopting the County's Critical Area Program document; amending the
14 1988 Critical Area Program document; and generally relating to the Chesapeake Bay
15 Critical Area and Wetlands.

16
17 BY repealing: Article 21, §2-301(j) and Article 28, §§1-101(66A) and 10-126
18 Anne Arundel County Code (1985, as amended)

19
20 BY repealing and reenacting, with amendments: Article 3, §2-107(b)(1); Article 11,
21 §6-102(d), (h), (i), and (j); Article 21, §§2-101(37A) and 2-608; and Article 28,
22 §§1A-105(b)(5)(v) and (h)(3)(vi); 11-102.1(b)(1); and 17-103(c) and (g)
23 Anne Arundel County Code (1985, as amended)

24
25 BY renumbering: Article 11, §6-102(e) through (g), (k) and (l) to be Article 11, §6-102(f)
26 through (h), (l) and (m), respectively; and Article 28, §§17-103(b), (d), (e), (f), (h),
27 (i), and (j) to be Article 28, §§17-103(c), (f), (g), (h), (j), (k), and (l), respectively
28 Anne Arundel County Code (1985, as amended)

29
30 BY adding: Article 11, §6-102(e); and Article 28, §§1A-103(g) and 17-103(b) and (e)
31 Anne Arundel County Code (1985, as amended)

EXPLANATION: CAPITALS indicate new matter added to existing law.

[Brackets] indicate matter stricken from existing law.

Underlining indicates amendments to bill.

~~Strikeover~~ indicates matter stricken from bill by amendment.

SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,* That Article 21, §2-301(j) and Article 28, §§1-101(66A) and 10-126 of the Anne Arundel County Code (1985, as amended) is are hereby repealed.

SECTION 2. *And be it further enacted,* That Article 11, §6-102(e) through (g) and (k) and (l) of the Anne Arundel County Code (1985, as amended) is hereby renumbered to be Article 11, §6-102(f) through (h) and (l) and (m), respectively; and Article 28, §17-102(b), (d), (e), (f), (h), (i), and (j) of the Anne Arundel County Code (1985, as amended) is hereby renumbered to be Article 28, §17-103(c), (f), (g), (h), (j), (k), and (l), respectively.

SECTION 3. *And be it further enacted,* That Section(s) of the Anne Arundel County Code (1985, as amended) read as follows:

ARTICLE 3 COUNTY BOARD OF APPEALS
Title 2. Zoning Appeals

2-107. Standards for granting variance.

(b) For a property located in the critical area, a variance to the requirements of the County critical area program may be granted after determining that:

(1) [due to the features of a site or other circumstances other than financial considerations] BECAUSE OF CERTAIN UNIQUE PHYSICAL CONDITIONS, SUCH AS EXCEPTIONAL TOPOGRAPHICAL CONDITIONS PECULIAR TO AND INHERENT IN THE PARTICULAR LOT, OR IRREGULARITY, NARROWNESS, OR SHALLOWNESS OF LOT SIZE AND SHAPE, strict implementation of the County's critical area program would result in an unwarranted hardship to the applicant;

ARTICLE 11 CRIMES AND PUNISHMENTS
Title 6. General Penalty and Civil Fines

6-102. Civil fines.

(d) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THE [The] amount of the civil fine for each civil violation of this Code is:

(1) for the first violation, \$50;

(2) for the second violation, \$100;

(3) for the third violation, \$150;

(4) for the fourth violation, \$200; and

(5) for each violation in excess of four, \$500.

(E) THE AMOUNT OF THE CIVIL FINE FOR EACH CIVIL VIOLATION OF ARTICLE 21 AND ARTICLE 28 THAT OCCURS WITHIN THE BUFFER OR EXPANDED BUFFER ESTABLISHED IN ARTICLE 21, §2-301(I) AND ARTICLE 28, §1A-104(a)(1) OF THIS CODE IS:

(1) FOR THE FIRST VIOLATION, \$500; AND

(2) FOR THE SECOND AND EACH SUBSEQUENT VIOLATION, \$1,000.

[h] (I) In any proceeding under this section for a civil violation:

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, the County

has the burden to prove the guilt of the defendant to the same extent as is required by law in the trial of criminal causes;

(2) FOR CIVIL VIOLATIONS OF ARTICLE 21 AND ARTICLE 28 OF THIS CODE THAT OCCUR WITHIN THE BUFFER OR EXPANDED BUFFER ESTABLISHED IN ARTICLE 21, §2-301(I) AND ARTICLE 28, §1A-104(A)(1) OF THIS CODE, THE COUNTY HAS THE BURDEN TO PROVE THE GUILT OF THE DEFENDANT BY CLEAR AND CONVINCING EVIDENCE;

[(2)] (3) the Court shall apply the evidentiary standards as prescribed by law or rule for the trial of criminal causes;

[(3)] (4) the Court shall ensure that the defendant has received a copy of the charges and that the defendant understands those charges;

[(4)] (5) the defendant is entitled to cross-examine all witnesses who appear against the defendant and to produce evidence or witnesses or elect to testify in the defendant's own behalf;

[(5)] (6) the defendant is entitled to be represented by counsel of the defendant's own selection and at the defendant's own expense;

[(6)] (7) the defendant may enter a plea of guilty or not guilty, and the verdict of the Court shall be guilty or not guilty; and

[(7)] (8) before rendering judgment the Court may place the defendant on probation in the same manner and to the same extent as is permitted by law in the trial of a criminal cause.

(J) (1) When a defendant has been found guilty and the fine has been imposed by the Court, the Court may direct that the payment of the fine be suspended or deferred under conditions the Court may establish.

(2) When a defendant has been found guilty and willfully fails to pay the fine imposed by the Court, that failure may be treated as criminal contempt of court for which the defendant may be punished by the Court as provided by law.

[(j)] (K) (1) If a person is found by the District Court to have committed a violation, the person shall be liable for the costs of the proceedings in the District Court.

(2) WHEN A DEFENDANT HAS BEEN FOUND GUILTY OF A CIVIL VIOLATION OF ARTICLE 21 OR ARTICLE 28 OF THIS CODE THAT HAS OCCURRED WITHIN THE BUFFER OR EXPANDED BUFFER ESTABLISHED IN ARTICLE 21, §2-301(I) OR ARTICLE 28, §1A-104(A)(1) OF THIS CODE, THE COURT MAY ORDER THE DEFENDANT TO ABATE THE INFRACTION OR TO PERMIT THE COUNTY TO ABATE THE INFRACTION AT THE OWNER'S EXPENSE.

ARTICLE 21 FLOODPLAIN MANAGEMENT, SEDIMENT CONTROL, AND STORMWATER MANAGEMENT Title 2. Grading and Sediment Control

~~2-101. Definitions.~~

[(37A) "Subdivided parcel" means any parcel that has been subdivided as defined in Article 26, §1-101(54) of this Code INTO RECORDED LEGALLY BUILDABLE LOTS and that meets all requirements of the Anne Arundel County subdivision regulations in effect on the date the parcel was subdivided.]

1 2-602. Violation--Without permit.

2
3 (a) When there is a violation of this title on property where grading and clearing have
4 been undertaken without the required grading permit or plan, the Department may:

5
6 (1) place a stop-work order on the property; and

7
8 (2) issue a correction notice to the owner of the property OR OTHER
9 RESPONSIBLE PARTY to bring the site into compliance.

10
11 (b) The Department may require the owner of the property OR OTHER
12 RESPONSIBLE PARTY to completely restore all areas damaged as a result of the violation
13 without causing additional damage to affected or adjacent areas.

14
15 2-603. Same--With permit.

16
17 (a) When there is a violation of this title on property for which a grading permit has
18 been issued, the Department may issue a notice of noncompliance to the permittee or
19 OTHER responsible [personnel] PARTY setting forth the nature of the required corrections
20 and the time for completing those corrections.

21
22 (b) If the permittee OR OTHER RESPONSIBLE PARTY fails to act on a notice of
23 noncompliance within the prescribed time, the Department shall post a stop-work order on
24 the site. In the stop-work order, the Department may permit corrective work to proceed and
25 set forth an additional time for completing the required corrections. The Department shall
26 send a copy of the stop-work order by certified mail to the owner of the property and to the
27 permittee OR OTHER RESPONSIBLE PARTY.

28
29 (d) If the corrections are not completed within the time set forth in the stop-work order:

30
31 (1) the permittee OR OTHER RESPONSIBLE PARTY shall be considered in
32 default of the conditions imposed by this title;

33
34 (2) any cash security, including a check, shall be forfeited; and

35
36 (3) the Department may order payment by any third party providing security.

37
38 (e) The Department may require that the permittee OR OTHER RESPONSIBLE
39 PARTY restore all areas damaged as a result of the violation without causing additional
40 damage to affected or adjacent areas.

41
42 2-608. Civil fines.

43
44 (a) A person who violates any provision of [the] THIS article is subject to a civil fine as
45 provided in Article 11, Title 6 of this Code. Each day that a violation continues constitutes a
46 separate offense.

47
48 (b) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE [The] amount of
49 THE civil fine for each civil violation of this [Code] TITLE is:

50
51 (1) for the first violation, \$100;

52
53 (2) for the second violation, \$250;

54
55 (3) for the third violation, \$500; and

56
57 (4) for the fourth violation and each subsequent violation, \$1,000;

1 (C) THE AMOUNT OF THE CIVIL FINE FOR EACH CIVIL VIOLATION OF THIS TITLE THAT
2 OCCURS WITHIN THE BUFFER OR EXPANDED BUFFER ESTABLISHED IN §2-301(I) OF THIS
3 TITLE IS:

4
5 (1) FOR THE FIRST VIOLATION, \$500; AND

6
7 (2) FOR THE SECOND AND ~~EACH~~ SUBSEQUENT ~~VIOLATIONS~~ VIOLATION, \$1,000;

8
9 [(c)] (D) For the purpose of cumulating violations, each site at which violations are
10 occurring shall be considered separately, even if a person is violating the provisions of this
11 article at more than one site.

12
13 (E) IN ADDITION TO THE PROPERTY OWNER, ANY PERSON, CONTRACTOR, EMPLOYEE,
14 AGENT, OR SUBCONTRACTOR WHO COMMITS A CIVIL VIOLATION THAT OCCURS WITHIN
15 THE BUFFER OR EXPANDED BUFFER ESTABLISHED IN §2-301(I) OF THIS TITLE IS
16 SEPARATELY AND INDEPENDENTLY LIABLE FOR THAT VIOLATION.

17 ARTICLE 28 ZONING

18 Title 1A. Critical Area

19
20
21 1A-103. Critical area criteria.

22
23 (G) WITHIN THE CRITICAL AREA, COUNTY DEVELOPMENT PROJECTS SHALL COMPLY
24 WITH SUBTITLE 2 OF TITLE 27 OF THE CODE OF MARYLAND REGULATIONS.

25
26 ~~(G)~~ (H) USES WITHIN THE RESOURCE CONSERVATION AREA ARE LIMITED TO THE
27 FOLLOWING, PROVIDED THAT EACH USE IS ALLOWED IN THE UNDERLYING ZONE AND
28 MEETS ALL CONDITIONS AND APPROVALS SET FORTH IN THE UNDERLYING ZONE AND
29 ANY ADDITIONAL RESTRICTIONS SET FORTH IN THIS SECTION:

30
31 (1) ANIMAL HUSBANDRY;

32
33 (2) BED AND BREAKFAST HOMES LOCATED IN STRUCTURES EXISTING AS OF
34 DECEMBER 1, 1985, PROVIDED FOOD SERVICE IS LIMITED TO ROOM GUESTS;

35
36 (3) BED AND BREAKFAST INNS LOCATED IN STRUCTURES EXISTING AS OF
37 DECEMBER 1, 1985;

38
39 (4) BLACKSMITH ACCESSORY TO A FARM;

40
41 (5) BULK STORAGE FOR AGRICULTURAL PRODUCTS AS AN ACCESSORY USE TO A
42 FARM;

43
44 (6) CEMETERIES ASSOCIATED WITH A CHURCH EXISTING AS OF DECEMBER 1,
45 1985, PROVIDED IMPERVIOUS SURFACES ARE LIMITED TO 15% OF THE SITE OR 20,000
46 SQUARE FEET, WHICHEVER IS LESS;

47
48 (7) CHURCHES AND ANCILLARY USES ON A MINIMUM SITE OF TWO ACRES
49 PROVIDED IMPERVIOUS SURFACES ARE LIMITED TO 15% OF THE SITE OR 20,000 SQUARE
50 FEET, WHICHEVER IS LESS;

51
52 (8) CLAY AND BORROW PITS OR SAND OR GRAVEL OPERATIONS;

53
54 (9) COMMERCIAL TELECOMMUNICATIONS FACILITIES;

55
56 (10) COMMERCIAL WATERMAN USES, NOT INCLUDING PROCESSING OR PACKING;

57
58 (11) COMMUNITY BEACHES;

59
60 (12) COMMUNITY PIERS AND WATER-ORIENTED RECREATIONAL USES;

1 (13) CONSERVATION USES, PRACTICES, AND STRUCTURES FOR THE
2 MAINTENANCE OF THE NATURAL ENVIRONMENT OF PROPERTIES WITHIN THE RESOURCE
3 CONSERVATION AREA;

4
5 (14) DAIRIES;

6
7 (15) EXHIBITS SHOWING HISTORICAL SHORELINE ACTIVITIES OR DEVELOPMENT;

8
9 (16) FARM TENANT HOUSING AT A DENSITY NOT TO EXCEED ONE DWELLING FOR
10 EACH 50 ACRES OF EACH FARMING OPERATION;

11
12 (17) FARMING;

13
14 (18) FISH HATCHERIES;

15
16 (19) FORESTRY;

17
18 (20) FUR FARMING;

19
20 (21) GAME AND WILDLIFE PRESERVES NOT INCLUDING HUNTING, SHOOTING,
21 CLUBHOUSES, SALES AND MAINTENANCE BUILDINGS, AND PARKING, SUBJECT TO AN
22 APPROVED SOIL CONSERVATION PLAN;

23
24 (22) GOLF COURSES, NOT INCLUDING CLUBHOUSES, SALES AND MAINTENANCE
25 BUILDINGS, AND PARKING AREAS;

26
27 (23) GOVERNMENT BUILDINGS, STRUCTURES, FACILITIES, AND USES THAT
28 CANNOT BE LOCATED OUTSIDE THE RESOURCE CONSERVATION AREA;

29
30 (24) COMMERCIAL GREENHOUSES ACCESSORY TO A FARM;

31
32 (25) GROUP HOMES IN CLASSIFICATIONS ONE, TWO, AND THREE LIMITED TO NINE
33 RESIDENTS;

34
35 (26) HOME OCCUPATIONS;

36
37 (27) HORSES AND PONIES ON SITES LESS THAN 40,000 SQUARE FEET;

38
39 (28) KENNELS ON PROPERTIES OF AT LEAST SIX ACRES;

40
41 (29) LIVESTOCK;

42
43 (30) MARINAS IN EXISTENCE AS OF DECEMBER 1, 1985;

44
45 (31) NURSERY FARMS;

46
47 (32) OUTSIDE STORAGE THAT IS ACCESSORY AND INCIDENTAL TO USES
48 PERMITTED IN THE RESOURCE CONSERVATION AREA, NOT TO EXCEED 10% OF THE LOT
49 AREA OR 500 SQUARE FEET, WHICHEVER IS LESS;

50
51 (33) PRIVATE OR PUBLIC RESEARCH INSTITUTIONS PROVIDED THAT IMPERVIOUS
52 SURFACES ARE LIMITED TO 15% OF THE SITE OR 20,000 SQUARE FEET, WHICHEVER IS
53 LESS;

54
55 (34) PRIVATE RESOURCE UTILIZATION OR OUTDOOR EXPERIENCE CAMPS, NOT
56 INCLUDING RECREATIONAL VEHICLES;

57
58 (35) PRIVATE RESIDENTIAL PIERS;

59
60 (36) PRIVATE SWIMMING POOLS;

61
(37) PUBLIC BEACHES;

1 (38) PUBLIC PARKS, PLAYGROUNDS, AND OTHER RECREATIONAL USES;

2
3 (39) PUBLIC UTILITIES;

4
5 (40) RECREATIONAL PIERS;

6
7 (41) RIFLE, SKEET, OR ARCHERY RANGES NOT INCLUDING CLUBHOUSES, SALES
8 AND MAINTENANCE BUILDINGS, AND PARKING;

9
10 (42) ROADSIDE STANDS WITH TEMPORARY SEASONAL STRUCTURES THAT SELL
11 ONLY PRODUCE, NOT TO EXCEED 500 SQUARE FEET;

12
13 (43) SALE OF CHRISTMAS TREES BETWEEN DECEMBER 5 AND 25, NOT TO EXCEED
14 ONE-HALF ACRE;

15
16 (44) SERVICE ORGANIZATIONS AND NONPROFIT CHARITABLE AND PHILAN-
17 THROPIC ORGANIZATIONS OR INSTITUTIONS PROVIDED THAT IMPERVIOUS SURFACES
18 ARE LIMITED TO 15% OF THE SITE OR 20,000 SQUARE FEET, WHICHEVER IS LESS;

19
20 (45) SIGNS;

21
22 (46) SINGLE-FAMILY DETACHED DWELLINGS;

23
24 (47) STABLES, COMMERCIAL OR COMMUNITY, AND RIDING CLUBS, SUBJECT TO
25 AN APPROVED SOIL CONSERVATION AND WATER QUALITY PLAN, NOT INCLUDING
26 CLUBHOUSES, SALES AND MAINTENANCE BUILDINGS, AND PARKING AREAS;

27
28 (48) TEMPORARY NONPROFIT EVENTS, INCLUDING FAIRS, CARNIVALS, OR
29 BAZAARS THAT DO NOT REQUIRE PERMANENT STRUCTURES PROVIDED THAT THE EVENT
30 LASTS NO MORE THAN 30 DAYS AND THAT NO MORE THAN ONE EVENT IS HELD WITHIN A
31 YEAR;

32
33 (49) UNENCLOSED STORAGE OF MANURE OR ODOR-PRODUCING OR DUST-
34 PRODUCING SUBSTANCES OR USES, ON A MINIMUM SITE OF 10 ACRES, ACCESSORY TO A
35 FARM;

36
37 (50) VETERINARY OFFICE ACCESSORY TO A FARM;

38
39 (51) WINERY ACCESSORY TO A FARM; AND

40
41 (52) YACHT CLUBS EXISTING AS OF DECEMBER 1, 1985.

42
43 1A-105. Impervious surfaces; steep slopes; certain restricted uses.

44
45 (b) (5) A property owner may exceed the impervious surface limits provided in
46 paragraphs (1) and (2) of this subsection if the following conditions exist:

47
48 (v) the property owner performs on-site mitigation as required by the County to
49 offset potential adverse water quality impacts from the new impervious surfaces, or the
50 property owner pays a fee OF 60 CENTS PER SQUARE FOOT FOR EACH SQUARE FOOT OF
51 IMPERVIOUS SURFACE OVER 15% OF THE AREA OF THE PARCEL [to the County instead of
52 performing the on-site mitigation].

53
54 (h) Development activities in the critical area on legally existing lots, subdivided
55 parcels, and legally platted parcels of land of record on or before December 1, 1985, that
56 have not otherwise been subject to critical area regulation are permitted if the following
57 criteria are met:

58
59 (3) forest clearing and afforestation in the resource conservation area and limited
60 development area shall be as follows:

(vi) for legal residential lots one-half acre or less in size that were in existence on or before December 1, 1985, clearing shall be limited to the minimum necessary to accommodate a house, septic system, driveway, and reasonable amount of yard PROVIDED THAT THE CLEARING DOES NOT EXCEED 6,534 SQUARE FEET, and mitigation shall be undertaken in the following order of preference:

1. on-site reforestation of an area equal to the area to be cleared;
2. off-site reforestation of an area equal to the area to be cleared; and
3. payment to the County of \$.60 for each square foot of forest area cleared;

Title 11. Rezoning, Special Exceptions, and Variances

11-102.1. Standards for granting variance.

(b) For a property located in the critical area, a variance to the requirements of the County critical area program may be granted if the Administrative Hearing Officer determines that:

(1) [due to the features of a site or other circumstances, other than financial considerations] BECAUSE OF CERTAIN UNIQUE PHYSICAL CONDITIONS, SUCH AS EXCEPTIONAL TOPOGRAPHICAL CONDITIONS PECULIAR TO AND INHERENT IN THE PARTICULAR LOT, OR IRREGULARITY, NARROWNESS, OR SHALLOWNESS OF LOT SIZE AND SHAPE, strict implementation of the County's critical area program would result in an unwarranted hardship to the applicant;

17-103. Civil citations and procedures.

(b) IN ADDITION TO THE PROPERTY OWNER, ANY PERSON, CONTRACTOR, EMPLOYEE, AGENT, OR SUBCONTRACTOR WHO COMMITS A CIVIL VIOLATION THAT OCCURS WITHIN THE BUFFER OR EXPANDED BUFFER ESTABLISHED IN §1A-104(A)(1) OF THIS ARTICLE IS SEPARATELY AND INDEPENDENTLY LIABLE FOR THAT VIOLATION.

[(c)] (D) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, the amount of THE civil fine for each violation of this article shall be as follows:

- (1) for the first violation, \$50;
- (2) for repeat civil violations, as follows:
 - (i) for the second violation, \$100;
 - (ii) for the third violation, \$150;
 - (iii) for the fourth violation, \$200; and
 - (iv) for each violation in excess of four, \$500.

(E) FOR CIVIL VIOLATIONS OF THIS TITLE OCCURRING WITHIN THE BUFFER OR EXPANDED BUFFER ESTABLISHED IN §1A-104(a)(1) OF THIS ARTICLE, THE AMOUNT OF THE CIVIL FINE FOR EACH VIOLATION SHALL BE AS FOLLOWS:

- (1) FOR THE FIRST VIOLATION, \$500; AND
- (2) FOR THE SECOND AND EACH SUBSEQUENT VIOLATION, \$1,000.

[(g)] (I) In any proceeding under this section for a violation:

(1) EXCEPT AS PROVIDED BY PARAGRAPH (2) OF THIS SUBSECTION, the County has the burden to [provide] PROVE the guilt of the defendant to the same extent as is required by law in THE trial of criminal causes;

(2) FOR ANY VIOLATION OF THIS TITLE THAT OCCURS WITHIN THE BUFFER OR EXPANDED BUFFER ESTABLISHED IN §1A-104(A)(1) OF THIS ARTICLE, THE COUNTY HAS THE BURDEN TO PROVE THE GUILT OF THE DEFENDANT BY CLEAR AND CONVINCING EVIDENCE.

[(2)] (3) the Court shall apply the evidentiary standards as prescribed by law or rule for THE trial of criminal causes;

[(3)] (4) the Court shall ensure that the defendant has received a copy of the charges [against him] and that the defendant understands those charges;

[(4)] (5) the defendant is entitled to cross-examine all witnesses who appear against [him,] THE DEFENDANT AND to produce evidence or witnesses [in his own behalf] or to ELECT TO testify in [his] THE DEFENDANT'S OWN behalf [if he elects to do so];

[(5)] (6) the defendant is entitled to be represented by counsel of the defendant's own selection and at the defendant's own expense;

[(6)] (7) the defendant may enter a plea of guilty or not guilty and the verdict of the Court shall be guilty or not guilty; and

[(7)] (8) before rendering judgment the Court may place the defendant on probation in the same manner and to the same extent as is permitted by law in the trial of a criminal cause.

~~SECTION 4. And be it further enacted, That the Program and Appendices described in Section 5 of Bill No. 49-88 are hereby amended by the "Critical Area Program Document, Anne Arundel County, Maryland - Addendum March 2000" incorporated herein by this reference as if fully set forth. A certified copy of said Program document shall be permanently kept on file in the office of the Administrative Officer to the County Council and in the Department of Planning and Code Enforcement.~~

SECTION 4. And be it further enacted, That the "Critical Area Program, Anne Arundel County, Maryland - August 22, 1988" is hereby amended as follows:

1. On page 17 of the document under "Growth Allocation", the second paragraph shall read as follows:

"New Intensely Developed Areas [shall] should be located in Limited Development Areas or adjacent to existing Intensely Developed Areas, and new Limited Development Areas [shall] should be located adjacent to existing Limited Development Areas or Intensely Developed Areas. New Intensely Developed and Limited Development Areas [shall] should be located to minimize impacts to habitat protection areas. [shall] should optimize benefits to water quality, and [shall] should minimize impacts to the defined land uses of the Resource Conservation Area. When new Intensely Developed or Limited Development Areas are developed in Resource Conservation Areas, under the allocation formula, they [shall] should be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters.

SECTION 5. ~~And be it further enacted, That if any provision or application of this Ordinance to any person or circumstance is declared by the Chesapeake Bay Critical Area Commission to be in conflict with the State's Critical Area Law or is held invalid for any reason in a court of competent jurisdiction, the conflict or invalidity does not affect other~~

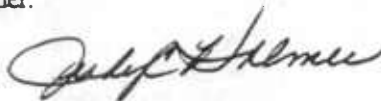
1 provisions or any other application of this Ordinance that can be given effect without the
2 conflicting or invalid provision or application, and for this purpose the provisions of this
3 Ordinance are declared severable.

4
5 SECTION 6. *And be it further enacted*, That this Ordinance shall take effect 45 days
6 from the date of enactment or upon approval by the State Critical Area Commission,
7 whichever is later.

AMENDMENTS ADOPTED May 1, 2000

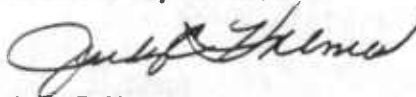
READ AND PASSED, as amended, this 5th day of June, 2000

By Order:



Judy C. Holmes
Administrative Officer

PRESENTED to the County Executive for her approval this 6th day of June, 2000



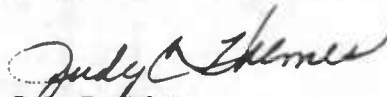
Judy C. Holmes
Administrative Officer

APPROVED AND ENACTED this 9 day of June, 2000



Janet S. Owens
County Executive

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.
12-00, THE ORIGINAL OF WHICH IS RETAINED IN THE FILES OF THE
COUNTY COUNCIL.



Judy C. Holmes
Administrative Officer